Chap. Sec.
27. Hazardous Materials Transportation [New]. 1801
28. National Transportation Safety Board [New] ---------- 1901

Chapter 1.—INTERSTATE COMMERCE ACT, PART I; GENERAL PROVISIONS AND RAILROAD AND PIPE LINE CARRIERS

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 43, 305, 1239a of this title; title 7 section 2044; title 15 section 1691c; title 29 section 213; title 33 sections 1507, 1512; title 42 sections 4916, 4917; title 45 sections 231, 561, 741, 744, 771, 791, 793; title 48 section 751.

CHAPTER REFERRED TO IN D.C. CODE

This chapter is referred to in sections 7–1223, 47–1520, 47–1580b of the District of Columbia Code.

§ 1. Regulation in general; car service; alteration of line.

* * * * *

(16) Rerouting of traffic on failure of initial carrier to serve public.

(a) Whenever the Commission is of opinion that any carrier by railroad subject to this chapter is for any reason unable to transport the traffic offered it so as properly to serve the public, it may, upon the same procedure as provided in paragraph (15) of this section, make such just and reasonable directions with respect to the handling, routing, and movement of the traffic of such carrier and its distribution over other lines of roads, as in the opinion of the Commission will best promote the service in the interest of the public and the commerce of the people, and upon such terms as between the carriers as they may agree upon, or, in the event of their disagreement, as the Commission may after subsequent hearing find to be just and reasonable.

(b) Whenever any carrier by railroad is unable to transport the traffic offered it because—

(1) its cash position makes its continuing operation impossible;

(2) it has been ordered to discontinue any service by a court; or

(3) it has abandoned service without obtaining a certificate from the Commission pursuant to this section;

the Commission may, upon the same procedure as provided in paragraph (15) of this section, make such just and reasonable directions with respect to the handling, routing, and movement of the traffic available to such carrier and its distribution over such carrier's lines, as in the opinion of the Commission will best promote the service in the interest of the public and the commerce of the people subject to the following conditions:

(A) Such direction shall be effective for no longer than 60 days unless extended by the Commission for cause shown for an additional designated period not to exceed 180 days.

(B) No such directions shall be issued that would cause a carrier to operate in violation of the Federal Railroad Safety Act of 1970 or that would substantially impair the ability of the carrier so directed to serve adequately its own patrons or to meet its outstanding common carrier obligations.

(C) The directed carrier shall not, by reason of such Commission direction, be deemed to have assumed or to become responsible for the debts of the other carrier.

(D) The directed carrier shall hire employees of the other carrier to the extent such employees had previously performed the directed service for the other carrier, and, as to such employees as shall be so hired, the directed carrier shall be deemed to have assumed all existing employment obligations and practices of the other carrier relating thereto, including, but not limited to, agreements governing rate of pay, rules and working conditions, and all employee protective conditions commencing with and for the duration of the direction.

(E) Any order of the Commission entered pursuant to this paragraph shall provide that if, for the period of its effectiveness, the cost, as hereinafter defined, of handling, routing, and moving the traffic of another carrier over the other carrier's lines of road shall exceed the direct revenues therefor, then upon request, payment shall be made to the directed carrier, in the manner hereinafter provided and within 90 days after expiration of such order, of a sum equal to the amount by which such cost has exceeded said revenues. The term "cost" shall mean those expenditures made or incurred in or attributable to the operations as directed, including the rental or lease of necessary equipment, plus an appropriate allocation of common expenses, overheads, and a reasonable profit. Such cost shall be then currently recorded by the carrier or carriers in such manner and on such forms as by general order may be prescribed by the Commission and shall be submitted to and subject to audit by the Commission. The Commission shall certify promptly to the Secretary of the Treasury the amount of payment to be made to said carrier or carriers under the provisions of this paragraph. Payments required to be made to a carrier under the provisions of this paragraph shall be made by the Secretary of the Treasury from funds hereby authorized to be appropriated in such amounts as may be necessary for the purpose of carrying out the provisions hereof.

* * * * *

(As amended Jan. 2, 1974, Pub. L. 93–236, title VI, § 601(e), 87 Stat. 1021.)

REFERENCE IN TEXT

Federal Railroad Safety Act of 1970, referred to in subsec. (b)(3)(B), is classified to section 431 et seq. of Title 45, Railroads.

AMENDMENTS

1974—Par. (16). Pub. L. 93-236 designated existing provisions as subsec. (a) and added subsec. (b).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5, 6, 15, 317, 906, 1020, 1655 of this title; title 11 section 205; title 26 section 250; title 45 sections 502, 544, 546, 702, 741.

§ 4. Long and short haul charges; competition with water routes.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 15a of this title.

§ 5. Combinations and consolidations of carriers.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1, 5a, 5b, 306, 1011, 1377, 1609, 1636 of this title; title 45 sections 565, 662, 716.

§ 12. Authority and duties of Commission; witnesses; depositions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1655 of this title.

§ 13. Complaints to and investigations by Commission.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 15a, 1655 of this title.

§ 13a. Discontinuance or change of the operation or service of trains or ferries; notice; investigation; hearing; determination.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 45 section 564.

§ 14. Reports and decisions of Commission.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1655 of this title.

§ 15a. Fair return for carriers.

(1) Definition of "rates".

When used in this section, the term "rates" means rates, fares, and charges, and all classifications, regulations, and practices relating thereto.

(2) Ratemaking criteria.

In the exercise of its power to prescribe just and reasonable rates the Commission shall give due consideration, among other factors, to the effect of rates on the movement of traffic by the carrier or carriers for which the rates are prescribed; to the need, in the public interest, of adequate and efficient railway transportation service at the lowest cost consistent with the furnishing of such service; and to the need of revenues sufficient to enable the carriers, under honest, economical, and efficient management to provide such service.

(3) Same; competition between carriers of different modes of transportation.

In a proceeding involving competition between carriers of different modes of transportation subject to this Act, the Commission, in determining whether a rate is lower than a reasonable minimum rate, shall consider the facts and circumstances attending the movement of the traffic by the carrier or carriers to which the rate is applicable. Rates of a carrier shall not be held up to a particular level to protect the traffic of any other mode of transportation, giving due consideration to the objectives of the national transportation policy declared in this Act.

(4) Adjustment of interstate rates.

(a) Duty of Commission; petitions; requirements and considerations.

The Commission shall by rule, on or before August 1, 1973, establish requirements for petitions for adjustment of interstate rates of common carriers subject to this chapter based upon increases in expenses of such carriers resulting from any increases in taxes under the Railroad Retirement Tax Act, as amended, occurring on or before January 1, 1975, or as a result of the enactment of the Railroad Retirement Amendments of 1973. Such requirements, established pursuant to section 553 of Title 5 (with time for comment limited so as to meet the required date for establishment and subject to future amendment or revocation), shall be designed to facilitate fair and expeditious action on any such petition as required in subparagraph (b) of this paragraph by disclosing such information as the amount needed in rate increases to offset such increases in expenses and the availability of means other than a rate increase by which the carrier might absorb or offset such increases in expenses.

(b) Same; interim rates; public notice requirement.

Notwithstanding any other provision of law, the Commission shall, within thirty days of the filing of a verified petition in accordance with rules promulgated under subparagraph (a) of this paragraph, by any carrier or group of carriers subject to this chapter, permit the establishment of increases in the general level of the interstate rates of said carrier or carriers in an amount approximating that needed to offset increases in expenses theretofore experienced or demonstrably certain to occur commencing on or before the effective date of the increased rates, as a result of any increases in taxes under the Railroad Retirement Tax Act, as amended, occurring on or before January 1, 1975, or as a result of the enactment of the Railroad Retirement Amendments of 1973. Such increases in rates may be made effective on not more than thirtv nor less than ten days' notice to the public, notwithstanding any outstanding orders of the Commission. To the extent necessary to effectuate their establishment, rates so increased shall be relieved from the provisions of section 4 of this title and may be published in tariff supplements of the kind ordinarily authorized in general increase proceedings.

(c) Same; final rate determination; hearings, burden of proof; general ratemaking criteria; refunds, interest rate.

The Commission shall within sixty days from the date of establishment of interim rates under subparagraph (b) of this paragraph commence hearings for the purpose of making the final rate determination. The Commission shall then proceed to make such final rate determination with the carrier having the burden of proof. In making such determination, the Commission may take into account all factors appropriate to ratemaking generally under this chapter and shall determine such final rates under the standards and limitations applicable to ratemaking generally under this chapter. If

the increases in rates finally authorized by the Commission are less than the increases in rates initially made effective, the carrier or carriers shall, subject to such tariff provisions as the Commission shall deem sufficient, make such refunds (in the amount by which the initially increased rate collected exceeds the finally authorized increased rate) as may be ordered by the Commission, plus a reasonable rate of interest as determined by the Commission. Nothing contained in this paragraph shall limit or otherwise affect the authority of the Commission to authorize or permit to become effective any increase in rates other than the increases herein specified.

(d) Adjustment of intrastate rates.

(A) Duty of State authority; petitions; interim rates; refunds, interest.

The State authority having jurisdicton over petitions for intrastate rate increases by any carrier or group of carriers subject to this chapter shall, within 60 days of the filing of a verified petition for such increases based upon increases in expenses of such carriers as a result of any increases in taxes under the Railroad Retirement Tax Act, as amended, occurring on or before January 1, 1975, or as a result of the enactment of the Railroad Retirement Amendments of 1973, act upon said petition. Such State authority may grant an interim rate increase or a final rate increase. If such State authority grants any interim rate increases, it shall thereafter investigate and determine the reasonableness of such increases and modify them to the extent required by applicable law. To the extent that any such interim increases are reduced as a result of the action of a State authority, the carrier or carriers shall make such refunds (in the amount by which the initially increased rate collected exceeds the finally authorized increased rate) as may be ordered by such State authority, plus a reasonable rate of interest as determined by the State authority.

(B) Same; action by Commission where complete denial or absence of timely action by State authority; grant of interim rates by Commission; final rate determination by State authority, refunds.

If a State authority denies in toto such a petition filed with it by such carrier or group of carriers seeking relief regarding such intrastate rate increases or does not act finally on such petition within 60 days from the presentation thereof, the Commission shall, within 30 days of the filing of a verified petition by such carrier or group of carriers relating to such intrastate rates, act upon such petition by applying the ratemaking criteria of subparagraph (c) of this paragraph. If the Commission grants, in whole or in part, such petition by any carrier or group of carriers, the increase authorized shall be considered as an interim rate increase as provided in subparagraph (A) above and shall be subject to final determination by the State authority in accordance with the procedures prescribed for interim intrastate rate increases as provided above, including the ordering of refunds by such State authority.

(C) Same; action by Commission where partial denial by State authority results in discrimination.

If a State authority denies in part such a petition filed with it by such carrier or group of carriers, within 60 days from the presentation thereof, the Commission shall, within 30 days of the filing of a verified petition by such carrier or group of carriers relating to the intrastate rates involved, act upon such petition by applying the criteria of section 13(4) of this title.

(D) Same; stay of refund pending final order under section 13(4).

Nothing in subparagraph (A) or (B) shall be construed to abrogate the authority of the Commission under section 13(4) of this title and in the event a carrier or group of carriers subject to a refund requirement under subparagraph (A) or (B) files a petition under section 13(3) of this title, the refund requirement shall be stayed pending final order of the Commission under section 13(4) of this title.

(E) Reasonable level for increased freight rates; preservation of market patterns and relationships and port relationships.

Any increased freight rates authorized shall not exceed a reasonable level by types of traffic, commodities, or commodity groups and shall preserve existing market patterns and relationships and present port relationships by increase[1] limitations within and between the major districts to the extent possible without authorizing unreasonable increases in any district. (As amended July 10, 1973, Pub. L. 93–69, title II, § 201, 87 Stat. 166.)

REFERENCES IN TEXT

This Act, referred to in subsec. (3), means the Interstate Commerce Act, which is classified to this chapter and chapters 8, 12, 13, and 19 of this title.

The Railroad Retirement Tax Act, referred to in subsecs. (4)(a), (b), (d)(A), is classified to chapter 22 (sec. 3201 et seq.) of Title 26, Internal Revenue Code.

The Railroad Retirement Amendments of 1973, referred to in subsecs. (4)(a), (b), (d)(A), means the amendments made by Pub. L. 93–69. For complete classification of Pub. L. 93–69 to this Code, see Short Title note set out under section 228b of Title 45, Railroads.

AMENDMENTS

1973—Par. (4). Pub. L. 93–69 added par. (4).

SHORT TITLE

Section 202 of Pub. L. 93–69 provided that: "This title [enacting par. (4) of this section] may be cited as the 'Railroad Rate Adjustment Act of 1973'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5a, 15b of this title.

§§ 16, 18.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 66, 1655 of this title.

§ 20. Reports, records, and accounts of carriers; mandamus; liability of initial carrier for loss, etc.

SECTION REFFERRED TO IN OTHER SECTIONS

This section is referred to in section 1655 of this title; title 28 sections 2321, 2323.

§ 22. Restrictions; quotations of rates for United States Government

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 45 section 546.

§ 23. Mandamus to obtain equal facilities for shippers.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 28 sections 2321, 2323.

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[1] So in original.

§ 26. Safety appliances, methods, and systems.

* * * * *

(c) Filing report on rules, standards, and instructions; time; modification.

Each carrier by railroad shall file with the Commission its rules, standards, and instructions for the installation, inspection, maintenance, and repair of the systems, devices, and appliances covered by this section within six months after August 26, 1937, and, after approval by the Commission, such rules, standards, and instructions, with such modifications as the Commission may require, shall become obligatory upon the carrier: *Provided, however,* That if any such carrier shall fail to file its rules, standards, and instructions the Commission shall prepare rules, standards, and instructions for the installation, inspection, maintenance, and repair of such systems, devices, and appliances to be observed by such carrier, which rules, standards, and instructions, a copy thereof having been served on the president, chief operating officer, trustee, or receiver, of such carrier, shall be obligatory: *Provided further,* That such carrier may from time to time change the rules, standards, and instructions herein provided for, but such change shall not take effect and the new rules, standards, and instructions be enforced until they shall have been filed with and approved by the Secretary of Transportation: *And provided further,* That the Secretary may on his own motion, upon good cause shown, revise, amend, or modify the rules, standards, and instructions prescribed by him under this subsection, and as revised, amended, or modified they shall be obligatory upon the carrier after a copy thereof shall have been served as above provided.

* * * * *

CODIFICATION

Subsec. (c) of this section is set out in this Supplement to conform its provisions to Pub. L. 89–670 which transferred certain functions of the Interstate Commerce Commission. See Transfer of Functions note below.

TRANSFER OF FUNCTIONS

"Secretary of Transportation" and "Secretary" have been substituted for "Interstate Commerce Commission" and "Commission" pursuant to Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which transferred to and vested in the Secretary of Transportation all functions, powers, and duties of the Interstate Commerce Commission and the Chairman, members, offices, and officers thereof under this section relating generally to safety appliances. See section 1655(e)(6)(A) of this title.

§ 26a. State or subdivision income tax withholding on compensation paid to interstate railroad, express company, or sleeping car company employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 26 section 6362.

Chapter 2.—LEGISLATION SUPPLEMENTARY TO "INTERSTATE COMMERCE ACT"

CHAPTER REFERRED TO IN D.C. CODE

This chapter is referred to in section 45–1607 of the District of Columbia Code.

§ 42. Parties included in proceedings to enforce law.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1, 41, 43, 1021 of this title.

§ 43. Proceedings in equity to enforce tariffs, etc.; United States attorneys; damages; witnesses; precedence.

Whenever the Interstate Commerce Commission shall have reasonable ground for belief that any common carrier is engaged in the carriage of passengers or freight traffic between given points at less than the published rates on file, or is committing any discriminations forbidden by law, a petition may be presented alleging such facts to the district court of the United States sitting in equity having jurisdiction; and when the act complained of is alleged to have been committed or as being committed in part in more than one judicial district or State, it may be dealt with, inquired of, tried, and determined in either such judicial district or State, whereupon it shall be the duty of the court summarily to inquire into the circumstances, upon such notice and in such manner as the court shall direct and without the formal pleadings and proceedings applicable to ordinary suits in equity, and to make such other persons or corporations parties thereto as the court may deem necessary, and upon being satisfied of the truth of the allegations of said petition said court shall enforce an observance of the published tariffs or direct and require a discontinuance of such discrimination by proper orders, writs, and process, which said orders, writs, and process may be enforceable as well against the parties interested in the traffic as against the carrier, subject to the right of appeal as now provided by law. It shall be the duty of the several United States attorneys, whenever the Attorney General shall direct, either of his own motion or upon the request of the Interstate Commerce Commission, to institute and prosecute such proceedings, and the proceedings provided for by sections 41, 42, or 43 of this title shall not preclude the bringing of suit for the recovery of damages by any party injured, or any other action provided by said Act approved February 4, 1887, entitled An Act to regulate commerce and the Acts amendatory thereof. And in proceedings under sections 41, 42, or 43 of this title and the Acts to regulate commerce the said courts shall have the power to compel the attendance of witnesses, both upon the part of the carrier and the shipper, who shall be required to answer on all subjects relating directly or indirectly to the matter in controversy, and to compel the production of all books and papers, both of the carrier and the shipper, which relate directly or indirectly to such transaction. (As amended Dec. 21, 1974, Pub. L. 93–528, § 6(b), 88 Stat. 1709.)

REFERENCES IN TEXT

The Act approved February 4, 1887 entitled An Act to regulate commerce, referred to in text, means the Interstate Commerce Act, which is classified to chapters 1, 8, 12, 13, and 19 of this title.

AMENDMENTS

1974—Pub. L. 93–528 struck out provisions making sections 44 and 45 of this title applicable to cases prosecuted under the direction of the Attorney General in the name of the Interstate Commerce Commission.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1, 41, 1021 of this title; title 28 sections 2321, 2323.

§ 44. Expedition of actions by United States involving general public importance.

In any civil action brought in any district court of the United States under the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890, or any other Acts having like purpose that have been or hereafter may be enacted, wherein the United States is plaintiff and equitable relief is sought, the Attorney General may file with the court, prior to the entry of final judgment, a certificate that, in his opinion, the case is of a general public importance. Upon filing of such certificate, it shall be the duty of the judge designated to hear and determine the case, or the chief judge of the district court if no judge has as yet been designated, to assign the case for hearing at the earliest practicable date and to cause the case to be in every way expedited. (As amended Dec. 21, 1974, Pub. L. 93–528, § 4, 88 Stat. 1708.)

REFERENCES IN TEXT

The Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890, referred to in the text means the Sherman Act, which is classified to sections 1–7 of Title 15, Commerce and Trade.

AMENDMENTS

1974—Pub. L. 93–528 struck out reference to the Act to regulate commerce approved Feb. 4, 1887, limited the application of the section to civil actions where equitable relief is sought, substituted provisions requiring filing of certificate with the court for provisions requiring filing of such certificate with the clerk of the court and requiring the clerk to furnish a copy of the certificate to the chief judge of the circuit of the circuit in which the case was pending, and further substituted "Upon filing of such certificate, it shall be the duty of the judge designated to hear and determine the case, or the chief judge of the district court if no judge has yet been designated, to assign the case for hearing at the earliest practicable date and" for "Upon receipt of the copy of such certificate, it shall be the duty of the chief judge of the circuit or the presiding circuit judge, as the case may be, to designate immediately three judges in such circuit, of whom at least one shall be a circuit judge, to hear and determine such case, and it shall be the duty of the judges so designated to assign the case for hearing at the earliest practicable date to participate in the hearing and determination thereof, and".

§ 45. Appeals.

(a) Court of Appeals; review by Supreme Court.

Except as otherwise expressly provided by this section, in every civil action brought in any district court of the United States under the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890, or any other Acts having like purpose that have been or hereafter may be enacted, in which the United States is the complainant and equitable relief is sought, any appeal from a final judgment entered in any such action shall be taken to the court of appeals pursuant to sections 1291 and 2107 of Title 28. Any appeal from an interlocutory order entered in any such action shall be taken to the court of appeals pursuant to sections 1292(a)(1) and 2107 of Title 28 but not otherwise. Any judgment entered by the court of appeals in any such action shall be subject to review by the Supreme Court upon a writ of certiorari as provided in section 1254(1) of Title 28.

(b) Direct appeals to Supreme Court.

An appeal from a final judgment pursuant to subsection (a) of this section shall lie directly to the Supreme Court if, upon application of a party filed within fifteen days of the filing of a notice of appeal, the district judge who adjudicated the case enters an order stating that immediate consideration of the appeal by the Supreme Court is of general public importance in the administration of justice. Such order shall be filed within thirty days after the filing of a notice of appeal. When such an order is filed, the appeal and any cross appeal shall be docketed in the time and manner prescribed by the rules of the Supreme Court. The Supreme Court shall thereupon either (1) dispose of the appeal and any cross appeal in the same manner as any other direct appeal authorized by law, or (2) in its discretion, deny the direct appeal and remand the case to the court of appeals, which shall then have jurisdiction to hear and determine the same as if the appeal and any cross appeal therein had been docketed in the court of appeals in the first instance pursuant to subsection (a) of this section. (As amended Dec. 21, 1974, Pub. L. 93–528, § 5, 88 Stat. 1709.)

REFERENCES IN TEXT

The Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890, referred to in the text means the Sherman Act, which is classified to sections 1–7 of Title 15, Commerce and Trade.

AMENDMENTS

1974—Pub. L. 93–528 substituted provisions for appeals to the court of appeals from civil actions in district courts where equitable relief is sought, review by the Supreme Court of judgments of courts of appeals, and for direct appeals to the Supreme Court of cases involving general public importance, for provisions that appeals from final judgments of district courts lie to the Supreme Court only.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–528 not applicable to actions in which notice of appeal has been filed to the Supreme Court on or before the fifteenth day following Dec. 21, 1974 and appeal in such actions shall be taken pursuant to this section as it existed prior to amendment by Pub. L. 93–528, see section 7 of Pub. L. 93–528 set out as a note under section 29 of Title 15, Commerce and Trade.

§ 46. Neglect or refusal to attend and testify, or to answer lawful inquiries, or to produce books, etc.; offense; punishment.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 48, 916, 1017 of this title; title 7 section 15; title 18 section 835.

§ 66. Same; payment for transportation.

(a) Deduction of overcharges.

Payment for transportation of persons or property for or on behalf of the United States by any carrier or forwarder shall be made upon presentation of bills therefor prior to audit by the General Services Administration, or his designee. The right is reserved to the United States Government to deduct the amount of any overcharge by any carrier or forwarder from any amount subsequently found to be due such carrier or forwarder. This does not affect the authority

of the General Accounting Office to make audits in accordance with the Budget and Accounting Act, 1921, and the Accounting and Auditing Act of 1950. The term "overcharges" shall be deemed to mean charges for transportation services in excess of those applicable thereto under tariffs lawfully on file with the Interstate Commerce Commission, the Civil Aeronautics Board, the Federal Maritime Commission, and any State transportation regulatory agency, and charges in excess of those applicable thereto under rates, fares, and charges established pursuant to section 22 of this title, or other equivalent contract, arrangement, or exemption from regulation: *Provided, however,* That such deductions shall be made within three years (not including any time of war) from the time of payment of bills: *Provided further,* That every claim for charges for transportation within the purview of this section shall be forever barred unless such claim shall be received in the General Services Administration, or by his designee within three years (not including any time of war) from the date of (1) accrual of the cause of action thereon, or (2) payment of charges for the transportation involved, or (3) subsequent refund for overpayment of such charges, or (4) deduction made pursuant to this section, whichever is later.

(b) Review of action by General Services Administration; limitations.

Nothing in subsection (a) of this section hereof shall be deemed to prevent any carrier or forwarder from requesting the Comptroller General to review the action on his claim by the General Services Administration, or his designee. Such request shall be forever barred unless received in the General Accounting Office within six months (not including in time of war) from the date the action was taken or within the periods of limitation specified in the second proviso in subsection (a) of this section, whichever is later.

(c) Advance payment.

Pursuant to regulations prescribed by the head of a Government agency or his designee and in conformity with such standards as shall be promulgated jointly by the Secretary of the Treasury and the Comptroller General of the United States, bills for passenger or freight transportation services to be furnished the United States by any carrier or forwarder may be paid in advance of completion of the services, without regard to section 529 of Title 31: *Provided,* That such carrier or forwarder has issued the usual ticket, receipt, bill of lading, or equivalent document covering the service involved, subject to later recovery by deduction or otherwise of any payments made for any services not received as ordered by the United States.

(d) Definition.

The term "head of a Government agency" means any individual or group of individuals having final decisionmaking responsibility for any department, commission, board, service, Government corporation, instrumentality, or other establishment or body in the United States Government. (As amended Oct. 25, 1972, Pub. L. 92–550, § 1, 88 Stat. 1163; Jan. 2, 1975, Pub. L. 93–604, title II, § 201, 88 Stat. 1960.)

REFERENCES IN TEXT

The Budget and Accounting Act, referred to in subsec. (a), is classified to section 1 et seq. of Title 31, Money and Finance.

The Accounting and Auditing Act of 1950, referred to in subsec. (a), is classified to section 65 et seq. of Title 31.

AMENDMENTS

1975—Subsec. (a). Pub. L. 93–604, § 201(1), (2), transferred the preliminary transportation audit responsibilities from the General Accounting Office to the General Services Administration, continued the final audit responsibility in the General Accounting Office, authorized the General Services Administration to designate other agencies to conduct such audits.

Subsec. (b). Pub. L. 93–604, § 201(3), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 93–604, § 201(3), redesignated former subsec. (b) as (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 93–604, § 201(3), redesignated former subsec. (c) as (d).

1972—Subsec. (a). Pub. L. 92–550, § 1(a), designated existing provisions as subsec. (a) and, in subsec. (a) as so designated, substituted provisions for payment for transportation of persons or property for or on behalf of the United States by carriers or forwarders subject to standards promulgated by the Secretary of the Treasury and the Comptroller General of the United States for provisions for payment for transportation of United States mail, persons or property for or on behalf of the United States by common carriers subject to the Interstate Commerce Act and the Civil Aeronautics Act of 1938, and expanded the definition of "overcharges" to encompass all modes of transportation and all means of contractual arrangements or exemptions from regulations.

Subsecs. (b), (c). Pub. L. 92–550, § 1(b), added subsecs. (b) and (c).

SHORT TITLE

Section 2 of Pub. L. 92–550 provided that: "This Act [amending this section] may be cited as the 'Transportation Payment Act of 1972'."

TRANSFER OF RECORDS, PROPERTY, PERSONNEL AND FUNDS; EFFECTIVE DATE; PERSONNEL DEVELOPMENT PROGRAM; PUBLICATION OF PLANS FOR TRANSFER; REPORT TO CONGRESS

Sections 202 and 203 of Pub. L. 93–604 provided that:

"Sec. 202. (a) Incident to the transfer of functions pursuant to the amendments made by section 201 of this Act [amending this section], there shall be transferred to the General Services Administration such records, property, personnel, appropriations, and other funds of the General Accounting Office as the Comptroller General and the Director of the Office of Management and Budget shall jointly determine after consultation with the Administrator of General Services and, with respect to personnel, with the Chairman of the United States Civil Service Commission.

"(b) Personnel transferred pursuant to subsection (a) of this section shall not be reduced in classification or compensation for two years after such transfer, except for cause. After such two-year period, each person transferred pursuant to subsection (a) shall be subject to the provisions of section 5337 of title 5, United States Code, as if such person had continued to be an employee of the General Accounting Office.

"Sec. 203. (a) The transfer of functions and personnel under this title [this section and this note] shall be effective on such date as is mutually determined by the Comptroller General of the United States and the Administrator of General Services, but not earlier than October 1, 1975, and not later than September 30, 1976.

"(b) Upon the enactment of this Act [Jan. 2, 1975] the Comptroller General of the United States shall establish and carry out a continuing program of personnel development and improvement applicable to the personnel who will be transferred under this title. Such program shall include provisions for training, career development and counseling services, a review of equal employment opportunity problems and the taking of corrective action, where appropriate, and any restructuring, reclassification, and redesigning of positions necessary to effectuate a full

and adequate transfer of the functions as provided for under this title.

"(c) At least sixty days prior to the effective date determined under subsection (a) [of this section], the Administrator of General Services shall establish a detailed plan for the transfer of functions and personnel under this title and shall publish such plan in the Federal Register. Such plan shall be based on a thorough survey of the availability of transportation to any new location for functions and personnel transferred and of the availability of parking facilities and food, health, and other services for personnel transferred, and shall include a detailed description of a personnel development program to be conducted by the Administrator of General Services to assure the establishment and maintenance of procedures which guarantee equal employment opportunities, promotion opportunities, employment and career counseling, and training and career development for personnel who are transferred.

"(d) Six months after the date of the transfer of the personnel and functions under this title, the Administrator of the General Services Administration shall make a report to the Congress as to actions which he has taken to implement such plan and the transfer of such personnel and functions thereunder."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1, 304a, 908, 1006a of this title; title 2 sections 142b, 142e; title 31 section 82c; title 44 section 308.

Chapter 8.—INTERSTATE COMMERCE ACT, PART II; MOTOR CARRIERS

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 15a, 43, 1239a of this title; title 15 section 1401; title 45 sections 741, 744, 771, 791, 793.

CHAPTER REFERRED TO IN D.C. CODE

This chapter is referred to in section 40–434 of the District of Columbia Code.

§ 302. Application of provisions.

* * * * *

(b) (1) Nothing in this chapter, except as provided in section 325a of this title, shall be construed to affect the powers of taxation of the several States or to authorize a motor carrier to do an intrastate business on the highways of any State, or to interfere with the exclusive exercise by each State of the power of regulation of intrastate commerce by motor carriers on the highways thereof.

(2) The requirement by a State that any motor carrier operating in interstate or foreign commerce within the border of that State register its certificate of public convenience and necessity or permit issued by the Commission shall not constitute an undue burden on interstate commerce provided that such registration is accomplished in accordance with standards, or amendments thereto, determined and officially certified to the Commission by the national organization of the State commissions, as referred to in section 305(f) of this title, and promulgated by the Commission. As so certified, such standards, or amendments thereto, shall be promulgated forthwith by the Commission and shall become effective five years from the date of such promulgation: *Provided,* That (1) any amendments of such standards, which are determined by the national organization of the State commissions and promulgated by the Commission prior to the initial effective date of such standards shall become effective on such initial effective date; and (2) after such standards become effective initially, any amendments of such standards, which are subsequently determined by the national organization of the State commissions, shall become effective at the time of promulgation or at such other time, subsequent to promulgation by the Commission, as may be determined by such organization. As used in this paragraph, "standards or amendments thereto" shall mean specification of forms and procedures required to evidence the lawfulness of interstate operations of a carrier within a State by (a) filing and maintaining current records of the certificates and permits issued by the Commission, (b) registering and identifying vehicles as operating under such certificates and permits, (c) filing and maintaining evidence of currently effective insurance or qualifications as a self-insurer under rules and regulations of the Commission, and (d) filing designations of local agents for service of process. Different standards may be determined and promulgated for each of the classes of carriers as differences in their operations may warrant. In determining or amending such standards, the national organization of the State commissions shall consult with the Commission and with representatives of motor carriers subject to State registration requirements. To the extent that any State requirements for registration of motor carrier certificates or permits issued by the Commission impose obligations which are in excess of the standards or amendments thereto promulgated under this paragraph, such excessive requirements shall, on the effective date of such standards, constitute an undue burden on interstate commerce. If the national organization of the State commissions fails to determine and certify to the Commission such standards within eighteen months from September 6, 1965, or if that organization at any time determines to withdraw in their entirety standards previously determined or promulgated, it shall be the duty of the Commission, within one year thereafter, to devise and promulgate such standards, and to review from time to time the standards so established and make such amendments thereto as it may deem necessary, in accordance with the foregoing requirements of this paragraph. Nothing in this paragraph shall be construed to deprive the Commission, when there is a reasonable question of interpretation or construction, of its jurisdiction to interpret or construe certificates of public convenience and necessity, permits, or rules and regulations issued by the Commission, nor to authorize promulgation of standards in conflict with any rule or regulation of the Commission.

* * * * *

(As amended Oct. 28, 1974, Pub. L. 93–496, § 14, 88 Stat. 1532.)

AMENDMENTS

1974—Subsec. (b)(2). Pub. L. 93–496 added proviso relating to the effective date of any amendments of standards promulgated prior to and after the initial effective date of such standards.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 303 of this title; title 47 section 410.

§ 303. Definitions and exceptions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 4917.

§ 305. Administration.

* * * * *

(g) Court review of Commission's orders; compelling Commission to take jurisdiction.

Any final order made under this chapter shall be subject to the same right of relief in court by any party in interest as is now provided in respect to orders of the Commission made under chapter 1 of this title: *Provided,* That where the Commission, in respect of any matter arising under this chapter, shall have issued a negative order solely because of a supposed lack of power, any such party in interest may commence appropriate judicial proceedings in a court of the United States under those provisions of law applicable in the case of proceedings to enjoin or suspend rules, regulations, or orders of the Commission and such court, if it determines that the Commission has such power, may enforce by writ of mandatory injunction the Commission's taking of jurisdiction.

* * * * *

(As amended Jan. 2, 1975, Pub. L. 93–584, § 9, 88 Stat. 1918.)

AMENDMENTS

1975—Subsec. (g). Pub. L. 93–584 substituted provisions that a party in interest may commence appropriate judicial proceedings in a court of the United States under provisions of law applicable in the case of proceedings to enjoin or suspend rules, regulations, or orders of the Commission, for provisions that a party in interest may file a bill of complaint with the appropriate District Court of the United States, convened under section 2284 of Title 28.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 93–584 not applicable to actions commenced on or before the last day of the first month beginning after Jan. 2, 1975, and actions to enjoin or suspend orders of the Interstate Commerce Commission which are pending when this amendment becomes effective shall not be affected thereby, but shall proceed to final disposition under the law existing on the date they were commenced, see section 10 of Pub. L. 93–584, set out as a note under section 2321 of Title 28, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5, 17, 302, 303, 304, 1655 of this title; title 47 section 410.

§ 305a. Joint Board, transportation requests.

REPEATED

Pub. L. 92–74, title II, § 201, Aug. 10, 1971, 85 Stat. 211; Pub. L. 92–398, title II, § 201, Aug. 22, 1972, 86 Stat. 588; Pub. L. 93–98, title II, § 201, Aug. 16, 1973, 87 Stat. 338; Pub. L. 93–391, title II, § 201, Aug. 28, 1974, 88 Stat. 778; Pub. L. 94–134, title II, § 201, Nov. 24, 1975, 89 Stat 707.

§ 316. Rates, fares, and charges.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1655 of this title.

§ 320. Accounts, records and reports.

* * * * *

(b) Period covered by report; time of filing; oath.

Said annual reports shall contain all the required information either (1) for the period of twelve months ending on the thirty-first day of December in each year, unless the Commission shall specify a different date; or (2) for a thirteen-period accounting year ending at the close of one of the last seven days of each calendar year, if the person making the report keeps his books on the basis of such an accounting year, and elects to make such report on the basis of such accounting year, subject to such rules and regulations as the Commission may prescribe. Any annual report shall be made out under oath and filed with the Commission at its office in Washington within three months after the close of the year for which the report is made, unless additional time be granted in any case by the Commission. Such periodical or special reports as may be required by the Commission under subsection (a) of this section shall also be under oath, whenever the Commission so requires.

* * * * *

(As amended July 7, 1972, Pub. L. 92–338, 86 Stat. 423.)

AMENDMENTS

1972—Subsec. (b). Pub. L. 92–338 added provision giving option to the carriers to make annual reports on a thirteen-period accounting year basis subject to rules and regulations prescribed by the Commission.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1, 5, 304, 322, 1655 of this title.

§ 322. Unlawful operation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1655 of this title.

§ 325a. State or subdivision income tax withholding on compensation paid to interstate motor vehicle employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 302 of this title; title 26 section 6362.

Chapter 12.—INTERSTATE COMMERCE ACT, PART III; WATER CARRIERS

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 15a, 43, 1239a of this title; title 45 sections 741, 744, 791, 793; title 46 section 804.

§ 903. Application of provisions; exemptions.

* * * * *

(b) Nothing in this chapter shall apply to the transportation by a water carrier of commodities in bulk. This subsection shall apply only in the case of commodities in bulk which are (in accordance with the existing custom of the trade in the handling and transportation of such commodities as of June 1, 1939) loaded and carried without wrappers or containers and received and delivered by the carrier without transportation mark or count. This subsection shall not apply to transportation subject, at the time this part takes effect, to the provisions of the Intercoastal Shipping Act, 1933, as amended.

* * * * *

(As amended Dec. 27, 1973, Pub. L. 93–201, § 1, 87 Stat. 838.)

REFERENCES IN TEXT

The Intercoastal Shipping Act, 1933, as amended, referred to in subsec. (b), is classified to chapter 23A (section 843 et seq.) of Title 46, Shipping.

AMENDMENTS

1973—Subsec. (b). Pub. L. 93–201 struck out provisions requiring that vessel cargo spaces be used for carrying not more than three bulk commodities, provisions relating to the concurrent transportation of commodities in bulk in the same vessel with other commodities, and provisions defining vessel.

IMPLEMENTATION OF RECOMMENDATIONS OF SECRETARY OF TRANSPORTATION FOR REPEAL OF THREE COMMODITY RESTRICTION AND NO-MIXING RULE

Sections 2 and 3 of Pub. L. 91–590, Dec. 28, 1970, 84 Stat. 1587 which limited the duration of the amendment of subsec. (b) of this section by Pub. L. 91–590 to three years, required the Secretary of Transportation to undertake a study of the system of economic regulation of dry bulk commodity transportation and report to Congress with recommendations for legislation, and required water carriers operating under the exemption under subsec. (b) of this section to file such reports containing such information as the Secretary of Transportation may prescribe in the conduct of the study, were repealed by section 2 of Pub. L. 93–201, Dec. 27, 1973, 87 Stat. 838.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1018 of this title.

§ 922b. Filing of information return or other report for income tax purposes with State or subdivision by water carrier on compensation paid to interstate employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 26 section 6362.

Chapter 13.—INTERSTATE COMMERCE ACT, PART IV; FREIGHT FORWARDERS

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 15a, 43, 1239a of this title; title 45 sections 741, 744, 791, 793.

§ 1017. Enforcement and procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1655 of this title.

Chapter 15.—INTERNATIONAL AVIATION FACILITIES

Sec.

1159a. International user charges; survey and report of discriminatory practices; negotiations by relevant Federal departments and agencies for reduction or elimination; payment of compensatory charges; procedure for imposition and accrual [New].

1159b. Discriminatory and unfair competitive practices [New].

(a) Review and remedial activities by relevant Federal departments and agencies.

(b) Requests of Congress by relevant Federal departments and agencies for additional remedial legislation.

(c) Annual report to Congress by Civil Aeronautics Board of remedial activities; information for preparation of report.

§ 1151. Definitions.

APPROPRIATIONS

Section 13, formerly 12, of act June 16, 1948, as renumbered by Pub. L. 93–623, § 3, Jan. 3, 1975, 88 Stat. 2103, provided that: "There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act [this chapter]."

§§ 1152 to 1155, 1157 to 1159.

TRANSFER OF FUNCTIONS

The effective date of Reorg. Plan No. 4 of 1970, referred to in the note under this section in the 1970 ed. of the Code, is Oct. 3, 1970, and not Oct. 30, 1970, as shown therein.

§ 1159a. International user charges; survey and report of discriminatory practices; negotiations by relevant Federal departments and agencies for reduction or elimination; payment of compensatory charges; procedure for imposition and accrual.

The Secretary of Transportation shall survey the charges made to air carriers by foreign governments or other foreign entities for the use of airport property or airway property in foreign air transportation. If the Secretary of Transportation determines at any time that such charges unreasonably exceed comparable charges for furnishing such airport property or airway property in the United States or are otherwise discriminatory, he shall submit a report on such cases promptly to the Secretary of State and the Civil Aeronautics Board, and the Secretary of State, in collaboration with the Civil Aeronautics Board, shall promptly undertake negotiations with the foreign country involved to reduce such charges or eliminate such discriminations. If within a reasonable period such charges are not reduced or such discriminations eliminated through negotiations, the Secretary of State shall promptly report such instances to the Secretary of Transportation who shall determine compensating charges equal to such excessive or discriminatory charges. Such compensating charges shall, with the approval of the Secretary of State, be imposed on the foreign air carrier or carriers of the country concerned by the Secretary of the Treasury as a condition to acceptance of the general declaration at the time of landing or takeoff of aircraft of such foreign air carrier or carriers. The amounts so collected shall accrue to an account established for that purpose by the Secretary of the Treasury. Payments shall be made from that account to air carriers in such amounts as shall be certified by the Secretary of Transportation in accordance with such regulations as he shall adopt to compensate such air carriers for excessive or discriminatory charges paid by them to the foreign countries involved. (June 16, 1948, ch. 473, § 11, as added Jan. 3, 1975, Pub. L. 93–623, § 3, 88 Stat. 2103.)

SHORT TITLE

Section 1 of Pub. L. 93–623 provided that: "This Act [enacting this section and sections 1159b and 1517 of this title, and amending sections 1151 note, 1160, 1373, 1376, 1377 and 1472 of this title and section 2122 of Title 22] may be cited as the 'International Air Transportation Fair Competitive Practices Act of 1974'."

§ 1159b. Discriminatory and unfair competitive practices.

(a) Review and remedial activities by relevant Federal departments and agencies.

United States air carriers operating in foreign air transportation perform services of vital importance to the foreign commerce of the United States including its balance of payments, to the Postal Service, and to the national defense. Such carriers have become subject to a variety of discriminatory and unfair competitive practices in their competition with foreign air carriers. The Department of State, the Department of the Treasury, the Department of Transportation, the Civil Aeronautics Board, and other departments or agencies, therefore, each shall keep under review, to the extent of their respective functions, all forms of discrimination or unfair competitive practices to which United States air carriers are subject in providing foreign air transportation services and each shall take all appropriate actions within its jurisdiction to eliminate such forms of discrimination or unfair competitive practices found to exist.

(b) Requests of Congress by relevant Federal departments and agencies for additional remedial legislation.

Each of these departments and agencies of Government shall request from Congress such additional legislation as may be deemed necessary at any time it is determined there is inadequate legal authority for dealing with any form of discrimination or unfair competitive practice found to exist.

(c) Annual report to Congress by Civil Aeronautics Board of remedial activities; information for preparation of report.

The Civil Aeronautics Board shall report annually to Congress on the actions that have been taken under subsection (a) of this section and on the continuing program to eliminate discriminations and unfair competitive practices faced by United States carriers in foreign air transportation. The Secretaries of State, Treasury, and Transportation shall furnish to the Civil Aeronautics Board such information as may be necessary to prepare the report required by this subsection. (Pub. L. 93–623, § 2, Jan. 3, 1975, 88 Stat. 2102.)

CODIFICATION

Section was enacted as part of the International Air Transportation Fair Competitive Practices Act of 1974 and not as part of the International Aviation Facilities Act, which comprises this chapter.

§ 1160. Utilization of facilities and services of other Government agencies.

Section 11 of act June 16, 1948, ch. 473, 62 Stat. 454, was renumbered 12 by Pub. L. 93–623, § 3, Jan. 3, 1975, 88 Stat. 2103.

TRANSFER OF FUNCTIONS

The effective date of Reorg. Plan No. 4 of 1970, referred to in the note under this section in the 1970 ed. of the Code, is Oct. 3, 1970, and not Oct. 30, 1970, as shown therein.

Chapter 19.—INTERSTATE COMMERCE ACT, PART V; LOAN GUARANTIES

Sec.

1239a. Audit by Comptroller General; financial transactions subject to audit; access to books, records, etc.; report to Congress; contents [New].

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 15a, 43, 1239a, 1655 of this title; title 45 sections 741, 744, 791, 793.

§ 1234. Conditions and limitations; statement of findings; declarations of dividends.

(a) No guaranty shall be made under section 1233 of this title—

(1) unless the Commission finds that without such guaranty, in the amount thereof, the carrier would be unable to obtain necessary funds, on reasonable terms, for the purposes for which the loan is sought;

(2) if in the judgment of the Commission the loan involved is at a rate of interest which is unreasonably high;

(3) if the terms of such loan permit full repayment more than twenty-five years after the date thereof; or

* * * * *

(As amended July 13, 1972, Pub. L. 92–348, § 5(a), 86 Stat. 463.)

AMENDMENTS

1972—Subsec. (a)(3). Pub. L. 92–348 substituted "twenty-five" for "fifteen".

§ 1235. Modification of guaranty.

The Commission may consent to the modification of the provisions as to rate of interest, time of payment of interest or principal, security, if any, or other terms and conditions of any guaranty which it shall have entered into pursuant to this chapter, or the renewal or extension of any such guaranty for any period of time not exceeding twenty-five years from the date of the original guaranty, whenever the Commission shall determine it to be equitable to do so. (As amended July 13, 1972, Pub. L. 92–348, § 5(b), 86 Stat. 463.)

AMENDMENTS

1972—Pub. L. 92–348 added provisions limiting the renewal or extension of any guaranty to any period of time not exceeding twenty-five years from the date of the original guaranty.

§ 1239a. Audit by Comptroller General; financial transactions subject to audit; access to books, records, etc.; report to Congress; contents.

(a) In any case in which—

(1) there is outstanding any guaranty by the Commission made under this chapter; or

(2) the Secretary of the Treasury is required to make any payment as a consequence of any guaranty by the Commission made under this chapter;

the financial transactions of the common carrier by railroad subject to this Act with respect to which such guaranty was made may be audited by the Comptroller General of the United States under such rules and regulations as he may prescribe. The representatives of the Comptroller General shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by such common carrier by railroad pertaining to its financial transactions and necessary to facilitate the audit, and such representatives shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians.

(b) A report of each such audit shall be made by the Comptroller General to the Congress. The report to the Congress shall contain such comments and information as the Comptroller General may deem necessary to inform the Congress of the financial operations and condition of the common carrier by railroad involved in such audit, together with such recommendations with respect thereto as he may deem advisable. The report shall also show specifically any program, expenditure, or other financial transaction or undertaking observed in the course of the audit, which, in the opinion of the Comptroller General, adversely affects the financial operations or condition of the common carrier by railroad involved in such audit or lessens the protection afforded the United States at the time the original guaranty was made. A copy of each report shall be furnished to the Commission at the time it is submitted to the Congress. (Feb. 4, 1887, ch. 104, pt. V,

§ 510, as added July 13, 1972, Pub. L. 92–348, § 6, 86 Stat. 463.)

REFERENCES IN TEXT

This Act, referred to in the text, means the Interstate Commerce Act, which is classified to this chapter and chapters 1, 8, 12, 13, and 19 of this title.

§ 1240. Termination of authority.

Section 510 of act Feb. 4, 1887, was renumbered 511 by Pub. L. 92–348, § 6, July 13, 1972, 86 Stat. 463.

Chapter 20.—FEDERAL AVIATION PROGRAM

SUBCHAPTER III—ORGANIZATION OF ADMINISTRATION POWERS AND DUTIES OF ADMINISTRATOR

Sec.

1356. Screening procedures for passengers; promulgation and amendment of regulations by Administrator; reports to Congress; exempted air transportation operations [New].

1357. Air transportation security [New].

(a) Rules and regulations; authority of Administrator to prescribe; purposes; consultations and criteria for promulgation and amendment.

(b) Establishment of security programs by airport operators; utilization of qualified State, local and private law enforcement personnel; procedure for utilization of personnel of other Federal departments and agencies or employed directly by Administrator.

(c) Training for personnel employed to carry out security programs; uniform standards for training and minimum qualifications of personnel eligible for training.

(d) Research and development by Administrator of security systems, procedures, facilities, and devices; disclosure of confidential information.

(e) Overall responsibility of Administrator.

(f) Definitions.

SUBCHAPTER XI.—MISCELLLANEOUS

1513. State taxation of air commerce [New].

(a) Prohibition; exemption.

(b) Permissible State taxes and fees.

(c) Nonapplicability of subsection (a) to airport operating authority until December 31, 1973.

1514. Suspension of air services by President; grounds; authority of President deemed condition to issuance of certificate of public convenience and necessity, etc.; unlawful activities [New].

1515. Security standards in foreign air transportation; notice to foreign nation by Secretary of State of standards requirements; determination by Secretary of Transportation and notice to foreign nations of compliance with minimum standards and necesary remedial measures; effect of failure to take remedial measures [New].

1516. Property not lawfuly transportable in aircraft cabin transported as baggage; liability of air carrier for loss or damage; terms and conditions of liability [New].

1517. Transportation of government-financed passengers and property by certified carriers; disallowance of payments by Comptroller General [New].

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 1714 of this title; title 7 sections 136q, 2044; title 14 section 82; title 26 section 47; title 39 sections 5401, 5402; title 40 App., section 208.

CHAPTER REFERRED TO IN D.C. CODE

This chapter is referred to in section 28:9–103 of the District of Columbia Code.

SUBCHAPTER I.—GENERAL PROVISIONS

§ 1301. Definitions.

As used in this chapter, unless the context otherwise requires—

* * * * *

(22) "Intrastate air carrier" means any citizen of the United States who undertakes, whether directly or indirectly or by a lease or any other arrangement, to engage solely in intrastate air transportation.

(23) "Intrastate air transportation" means the carriage of persons or property as a common carrier for compensation or hire, by turbojet-powered aircraft capable of carrying thirty or more persons, wholly within the same State of the United States.

(24) "Landing area" means any locality, either of land or water, including airports and intermediate landing fields, which is used, or intended to be used, for the landing and take-off of aircraft, whether or not facilities are provided for the shelter, servicing, or repair of aircraft, or for receiving or discharging passengers or cargo.

(25) "'Mail" means United States mail and foreign-transit mail.

(26) "Navigable airspace" means airspace above the minimum altitudes of flight prescribed by regulations issued under this chapter, and shall include airspace needed to insure safety in take-off and landing of aircraft.

(27) "Navigation of aircraft" or "navigate aircraft" includes the piloting of aircraft.

(28) "Operation of aircraft" or "operate aircraft" means the use of aircraft, for the purpose of air navigation and includes the navigation of aircraft. Any person who causes or authorizes the operation of aircraft, whether with or without the right of legal control (in the capacity of owner, lessee, or otherwise) of the aircraft, shall be deemed to be engaged in the operation of aircraft within the meaning of this chapter.

(29) "Person" means any individual, firm, copartnership, corporation, company, association, joint-stock association, or body politic; and includes any trustee, receiver, assignee, or other similar representative thereof.

(30) "Propeller" includes all parts, appurtenances, and accessories thereof.

(31) "Possessions of the United States" means (a) the Canal Zone, but nothing herein shall impair or affect the jurisdiction which has heretofore been, or may hereafter be, granted to the President in respect of air navigation in the Canal Zone; and (b) all other possessions of the United States. Where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, references in this chapter to possessions of the United States shall be treated as also referring to the Commonwealth of Puerto Rico.

(32) "Public aircraft" means an aircraft used exclusively in the service of any government or of any political subdivision thereof, including the government of any State, Territory, or possession of the United States, or the District of Columbia, but not including any government-owned aircraft engaged

in carrying persons or property for commercial purposes.

(33) "Spare parts" means parts, appurtenances, and accessories of aircraft (other than aircraft engines and propellers), of aircraft engines (other than propellers), of propellers and of appliances, maintained for installation or use in an aircraft, aircraft engine, propeller, or appliance, but which at the time are not installed therein or attached thereto.

(34) The term "special aircraft jurisdiction of the United States" includes—

(a) civil aircraft of the United States;

(b) aircraft of the national defense forces of the United States;

(c) any other aircraft within the United States;

(d) any other aircraft outside the United States—

(i) that has its next scheduled destination or last point of departure in the United States, if that aircraft next actually lands in the United States; or

(ii) having "an offense", as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft, committed aboard, if that aircraft lands in the United States with the alleged offender still aboard; and

(e) other aircraft leased without crew to a lessee who has his principal place of business in the United States, or if none, who has his permanent residence in the United States;

while that aircraft is in flight, which is from the moment when all external doors are closed following embarkation until the moment when one such door is opened for disembarkation or in the case of a forced landing, until the competent authorities take over the responsibility for the aircraft and for the persons and property aboard.

(35) "Supplemental air carrier" means an air carrier holding a certificate of public convenience and necessity authorizing it to engage in supplemental air transportation.

(36) "Supplemental air transportation" means charter trips, including inclusive tour charter trips, in air transportation, other than the transportation of mail by aircraft, rendered pursuant to a certificate of public convenience and necessity issued pursuant to section 1371(d)(3) of this title to supplement the scheduled service authorized by certificates of public convenience and necessity issued pursuant to sections 1371(d) (1) and (2) of this title. Nothing in this paragraph shall permit a supplemental air carrier to sell or offer for sale an inclusive tour in air transportation by selling or offering for sale individual tickets directly to members of the general public, or to do so indirectly by controlling, being controlled by, or under common control with, a person authorized by the Board to make such sales.

(37) "Ticket agent" means any person, not an air carrier or a foreign air carrier and not a bona fide employee of an air carrier or foreign air carrier, who, as principal or agent, sells or offers for sale any air transportation, or negotiates for, or holds himself out by solicitation, advertisement, or otherwise as one who sells, provides, furnishes, contracts or arranges for, such transportation.

(38) "United States" means the several States, the District of Columbia, and the several Territories and possessions of the United States, including the territorial waters and the overlying airspace thereof. (As amended Pub. L. 93–366, title I, § 102, title II, § 206, Aug. 5, 1974, 88 Stat. 409, 419.)

AMENDMENTS

1974—Pars. (22)–(33). Pub. L. 93–366, § 206, added pars. (22) and (23). Former pars. (22) to (31) were redesignated (24) to (33), respectively.

Par. (34). Pub. L. 93–366, §§ 102, 206, redesignated former par. (32) as (34) and, as so redesignated, relettered former subpars. (c)(i) as (c), and (c)(ii) as (d)(i), added subpars. (d)(ii) and (e), and expanded time period when, for purpose of definition, aircraft is considered in flight.

Pars. (35)–(38). Pub. L. 93–366, § 206, redesignated former pars. (33) to (36) as (35) to (38), respectively.

SHORT TITLE

Section 101 of Pub. L. 93–366 provided that: "This title [which enacted sections 1514 and 1515 of this title and amended this section and sections 1471 to 1473 and 1487 of this title] may be cited as the 'Antihijacking Act of 1974'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1807 of this title; title 15 section 2052; title 18 section 1201; title 42 section 4902.

§ 1303. Consideration of matters in public interest by Secretary of Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1655 of this title.

SUBCHAPTER II.—CIVIL AERONAUTICS BOARD; GENERAL POWERS

§ 1324. General powers and duties of the Board.

GUARANTY OF LOANS FOR PURCHASE OF AIRCRAFT AND EQUIPMENT

Pub. L. 85–307, Sept 7, 1957, 71 Stat. 629, as amended by Pub. L. 86–3, § 21, Mar. 18, 1959, 73 Stat. 13; Pub. L. 86–70, § 39, June 25, 1959, 73 Stat. 150; Pub. L. 86–624, § 37, July 12, 1960, 74 Stat. 421; Pub. L. 87–820, §§ 1–7, Oct. 15, 1962, 76 Stat. 936; Pub. L. 90–568, §§ 1, 2, Oct. 12, 1968, 82 Stat. 1003; Pub. L. 92–556, Oct. 25, 1972, 86 Stat. 1170, provided:

* * * * *

"SEC. 4. [RESTRICTIONS]. No guaranty shall be made:

* * * * *

"(d) Wherein the total face amount of such loan, and of any other loans to the same carrier, or corporate predecessor carrier or carriers, guaranteed and outstanding under the terms of this Act exceed $30,000,000.

* * * * *

"SEC. 8. [EFFECTIVE AND TERMINATION DATES]. This Act shall become effective upon enactment [Sept. 7, 1957], and the authority contained in section 3 hereof shall expire twenty years thereafter."

* * * * *

SUBCHAPTER III.—ORGANIZATION OF ADMINISTRATION; POWERS AND DUTIES OF ADMINISTRATOR

§ 1343. General powers and duties of Administrator.

(a) Military participation; detail of members of Armed Forces.

* * * * *

(3) Repealed. Pub. L. 93–608, §1(20), Jan. 2, 1975, 88 Stat. 1970.

* * * * *

(As amended Pub. L. 93–608, § 1(20), Jan. 2, 1975, 88 Stat. 1970.)

AMENDMENTS

1975—Subsec. (a)(3). Pub. L. 93–608 repealed subsec. (a)(3), which set forth reporting requirements for agreements relating to the detail of members of the armed services.

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on January 5, 1973, to terminate not later than the expiration of the two-year period following January 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1655 of this title.

§§ 1347 to 1350, 1354, 1355.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 1655 of this title.

§ 1356. Screening procedures for passengers; promulgation and amendment of regulations by Administrator; reports to Congress; exempted air transportation operations.

(a) The Administrator shall prescribe or continue in effect reasonable regulations requiring that all passengers and all property intended to be carried in the aircraft cabin in air transportation or intrastate air transportation be screened by weapon-detecting procedures or facilities employed or operated by employees or agents of the air carrier, intrastate air carrier, or foreign air carrier prior to boarding the aircraft for such transportation. One year after August 5, 1974, or after the effective date of such regulations, whichever is later, the Administrator may alter or amend such regulations, requiring a continuation of such screening only to the extent deemed necessary to assure security against acts of criminal violence and aircraft piracy in air transportation and intrastate air transportation. The Administrator shall submit semiannual reports to the Congress concerning the effectiveness of screening procedures under this subsection and shall advise the Congress of any regulations or amendments thereto to be prescribed pursuant to this subsection at least 30 days in advance of their effective date, unless he determines that an emergency exists which requires that such regulations or amendments take effect in less than 30 days and notifies the Congress of his determination.

(b) The Administrator may exempt from the provisions of this section, in whole or in part, air transportation operations, other than those scheduled passenger operations performed by air carriers engaging in interstate, overseas, or foreign air transportation under a certificate of public convenience and necessity issued by the Civil Aeronautics Board under section 1371 of this title or under a foreign air carrier permit issued by the Board under section 1372 of this title. (Pub.L. 85–726, title III, § 315, as added Pub.L. 93–366, title II, § 202, Aug. 5, 1974, 88 Stat. 415.)

SHORT TITLE

Section 201 of Pub. L. 93–366 provided that: "This title [which enacted this section and sections 1357 and 1516 of this title and amended sections 1301, 1472, and 1511 of this title] may be cited as the 'Air Transportation Security Act of 1974'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1511 of this title.

§ 1357. Air transportation security.

(a) Rules and regulations; authority of Administrator to prescribe; purposes; consultations and criteria for promulgation and amendment.

(1) The Administrator of the Federal Aviation Administration shall prescribe such reasonable rules and regulations requiring such practices, methods, and procedures, or governing the design, materials, and construction of aircraft, as he may deem necessary to protect persons and property aboard aircraft operating in air transportation or intrastate transportation against acts of criminal violence and aircraft piracy.

(2) In prescribing and amending rules and regulations under paragraph (1) of this subsection, the Administrator shall—

(A) consult with the Secretary of Transportation, the Attorney General, and such other Federal, State, and local agencies as he may deem appropriate;

(B) consider whether any proposed rule or regulation is consistent with protection of passengers in air transportation or intrastate air transportation against acts of criminal violence and aircraft piracy and the public interest in the promotion of air transportation and intrastate air transportation;

(C) to the maximum extent practicable, require uniform procedures for the inspection, detention, and search of persons and property in air transportation and intrastate air transportation to assure their safety and to assure that they will receive courteous and efficient treatment, by air carriers, their agents and employees, and by Federal, State, and local law enforcement personnel engaged in carrying out any air transportation security program established under this section; and

(D) consider the extent to which any proposed rule or regulation will contribute to carrying out the purposes of this section.

(b) Establishment of security programs by airport operators; utilization of qualified State, local and private law enforcement personnel; procedure for utilization of personnel of other Federal departments and agencies or employed directly by Administrator.

Regulations prescribed under subsection (a) of this section shall require operators of airports regularly serving air carriers certificated by the Civil Aeronautics Board to establish air transportation security programs providing a law enforcement presence and capability at such airports adequate to insure the safety of persons traveling in air transportation or intrastate air transportation from acts of criminal violence and aircraft piracy. Such regulations shall authorize such airport operators to utilize the services of qualified State, local, and private law enforcement personnel whose services are made available by their employers. In any case in which the Administrator determines, after receipt of notification from

an airport operator in such form as the Administrator may prescribe, that qualified State, local, and private law enforcement are not available in sufficient numbers to carry out the provisions of subsection (a) of this section, the Administrator may, by order, authorize such airport operator to utilize, on a reimbursable basis, the services of—

(1) personnel employed by any other Federal department or agency, with the consent of the head of such department or agency; and

(2) personnel employed directly by the Administrator;

at the airport concerned in such numbers and for such period of time as the Administrator may deem necessary to supplement such State, local, and private law enforcement personnel. In making the determination referred to in the preceding sentence the Administrator shall take into consideration—

(A) the number of passengers enplaned at such airport;

(B) the extent of anticipated risk of criminal violence and aircraft piracy at such airport or to the air carrier aircraft operations at such airport; and

(C) the availability at such airport of qualified State or local law enforcement personnel.

(c) Training for personnel employed to carry out security programs; uniform standards for training and minimum qualifications of personnel eligible for training.

The Administrator may provide training for personnel employed by him to carry out any air transportation security program established under this section and for other personnel, including State, local, and private law enforcement personnel, whose services may be utilized in carrying out any such air transportation security program. The Administrator shall prescribe uniform standards with respect to training provided personnel whose services are utilized to enforce any such air transportation security program, including State, local, and private law enforcement personnel, and uniform standards with respect to minimum qualifications for personnel eligible to receive such training.

(d) Research and development by Administrator of security systems, procedures, facilities, and devices; disclosure of confidential information.

(1) The Administrator shall conduct such research (including behavioral research) and development as he may deem appropriate to develop, modify, test, and evaluate systems, procedures, facilities, and devices to protect persons and property aboard aircraft in air transportation or intrastate air transportation against acts of criminal violence and aircraft piracy.

(2) Notwithstanding section 552 of Title 5 relating to freedom of information, the Administrator shall prescribe such regulations as he may deem necessary to prohibit disclosure of any information obtained or developed in the conduct of research and development activities under this subsection if, in the opinion of the Administrator, the disclosure of such information—

(A) would constitute an unwarranted invasion of personal privacy (including, but not limited to, information contained in any personnel, medical, or similar file);

(B) would reveal trade secrets or privileged or confidential commercial or financial information obtained from any person; or

(C) would be detrimental to the safety of persons traveling in air transportation.

Nothing in this subsection shall be construed to authorize the withholding of information from the duly authorized committees of the Congress.

(e) Overall responsibility of Administrator.

(1) Except as otherwise specifically provided by law, no power, function, or duty of the Administrator of the Federal Aviation Administration under this section shall be assigned or transferred to any other Federal department or agency.

(2) Notwithstanding any other provisions of law, the Administrator of the Federal Aviation Administration shall have the exclusive responsibility for the direction of any law enforcement activity affecting the safety of persons aboard aircraft in flight involved in the commission of an offense under section 1472(i) or (n) of this title. Other Federal departments and agencies shall, upon request by the Administrator, provide such assistance as may be necessary to carry out the purposes of this paragraph.

(3) For the purposes of this subsection, an aircraft is considered in flight from the moment when all external doors are closed following embarkation until the moment when such door is opened for disembarkation.

(f) Definitions.

For purposes of this section, the term "law enforcement personnel" means individuals—

(1) authorized to carry and use firearms,

(2) vested with such police power of arrest as the Administrator deems necessary to carry out this section, and

(3) identifiable by appropriate indicia of authority.

(Pub. L. 85–726, title III, § 316, as added Pub. L. 93–366, title II, § 202, Aug. 5, 1974, 88 Stat. 415.)

SUBCHAPTER IV.—AIR CARRIER ECONOMIC REGULATION

§ 1371. Certificate of public convenience and necessity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1301, 1356, 1386, 1471, 1487, 1517 of this title; title 39 section 5402.

§ 1372. Permits to foreign air carriers.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1356, 1461, 1508, 1515 of this title.

§ 1373. Tariffs of air carriers.

* * * * *

(b) Observance of tariffs; granting, soliciting, or accepting rebates.

(1) No air carrier of foreign air carrier or any ticket agent shall charge or demand or collect or receive a greater or less or different compensation for air transportation, or for any service in connection therewith, than the rates, fares, and charges specified in then currently effective tariffs of such air carrier or foreign air carrier; and no air carrier or foreign air carrier or ticket agent shall, in any manner or by any device, directly or indirectly, or

through any agent or broker, or otherwise, refund or remit any portion of the rates, fares, or charges so specified, or extend to any person any privileges or facilities, with respect to matters required by the Board to be specified in such tariffs except those specified therein. Nothing in this chapter shall prohibit such air carriers or foreign air carriers, under such terms and conditions as the Board may prescribe, from issuing or interchanging tickets or passes for free or reduced-rate transportation to their directors, officers, and employees (including retired directors, officers, and employees who are receiving retirement benefits from any air carrier or foreign air carrier), the parents and immediate families of such officers and employees, and the immediate families of such directors; widows, widowers, and minor children of employees who have died as a direct result of personal injury sustained while in the performance of duty in the service of such air carrier or foreign air carrier; witnesses and attorneys attending any legal investigation in which any such air carrier is interested; persons injured in aircraft accidents and physicians and nurses attending such persons; immediate families, including parents, of persons injured or killed in aircraft accidents where the object is to transport such persons in connection with such accident; and any person or property with the object of providing relief in cases of general epidemic, pestilence, or other calamitous visitation; and, in the case of overseas or foreign air transportation, to such other persons and under such other circumstances as the Board may by regulations prescribe. Any air carrier or foreign air carrier, under such terms and conditions as the Board may prescribe, may grant reduced-rate transportation to ministers of religion on a space-available basis.

(2) No shipper, consignor, consignee, forwarder, broker, or other person, or any director, officer, agent, or employee thereof, shall knowingly pay, directly or indirectly, by any device or means, any greater or less or different compensation for air transportation of property, or for any service in connection therewith, than the rates, fares, and charges specified in currently effective tariffs applicable to such air transportation; and no such person shall, in any manner or by any device, directly or indirectly, through any agent or broker, or otherwise, knowingly solicit, accept, or receive a refund or remittance of any portion of the rates, fares, or charges so specified, or knowingly solicit, accept, or receive any privilege, favor, or facility, with respect to matters required by the Board to be specified in such tariffs, except those specified therein.

* * * * *

(As amended Pub. L. 93–623, §§ 7(a), 8(a), Jan. 3, 1975, 88 Stat. 2105.)

AMENDMENTS

1975—Subsec. (b)(1). Pub. L. 93–623 §§ 7(a), 8(a), designated existing provisions as subsec. (b)(1), and, as so designated, added "or any ticket agent" after "No air carrier or foreign air carrier" wherever appearing therein, and substituted "then currently effective tariffs of such air carrier or foreign air carrier" for "its currently effective tariffs."

Subsec. (b)(2). Pub. L. 93–623, § 8(a), added subsec. (b)(2).

§ 1374. Rates of carriage for persons and property; duty to provide service, rates, and divisions; foreign air transportation rates; discrimination.

(a)(1) It shall be the duty of every air carrier to provide and furnish interstate and overseas air transportation, as authorized by its certificate, upon reasonable request therefor and to provide reasonable through service in such air transportation in connection with other air carriers; to provide safe and adequate service, equipment, and facilities in connection with such transportation; to establish, observe, and enforce just and reasonable individual and joint rates, fares, and charges, and just and reasonable classifications, rules, regulations, and practices relating to such air transportation; and, in case of such joint rates, fares, and charges, to establish just, reasonable, and equitable divisions thereof as between air carriers participating therein which shall not unduly prefer or prejudice any of such participating air carriers.

(2) It shall be the duty of every air carrier and foreign air carrier to establish, observe, and enforce just and reasonable individual and joint rates, fares, and charges, and just and reasonable classifications, rules, regulations, and practices relating to foreign air transportation; and, in case of such joint rates, fares, and charges, to establish just, reasonable, and equitable divisions thereof as between air carriers or foreign air carriers participating therein which shall not unduly prefer or prejudice any of such participating air carriers or foreign air carriers.

* * * * *

(As amended Pub. L. 92–259, § 1, Mar. 22, 1972, 86 Stat. 95.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–259 designated existing provisions as par. (1) and added par. (2).

INTERNATIONAL AGREEMENTS

Subsec. (a)(2) of this section not to be deemed to authorize any actions inconsistent with the provisions of section 1502 of this title, see section 4 of Pub. L. 92–259, set out as a note under section 1482 of this title.

§ 1376. Rates for transportation of mail.

* * * * *

(h) Payments to foreign air carriers; rates pursuant to Universal Postal Union Convention; criteria for changes in rates by Civil Aeronautics Board.

(1) In any case where air transportation is performed between the United States and any foreign country, both by aircraft owned or operated by one or more air carriers holding a certificate under this subchapter and by aircraft owned or operated by one or more foreign air carriers, the Postmaster General shall not pay to or for the account of any such foreign air carrier a rate of compensation for transporting mail by aircraft between the United States and such foreign country, which, in his opinion, will result (over such reasonable period as the Postmaster General may determine, taking account of exchange fluctuations and other factors) in such foreign air carrier receiving a higher rate of compensation for transporting such mail than such foreign country pays to air carriers for transporting its mail by aircraft between such foreign country and the United States, or receiving a higher rate

of compensation for transporting such mail than a rate determined by the Postmaster General to be comparable to the rate such foreign country pays to air carriers for transporting its mail by aircraft between such foreign country and intermediate country on the route of such air carrier between such foreign country and the United States.

(2) The Secretary of State and the Postmaster General each shall take all necessary and appropriate actions to assure that the rates paid for the transportation of mail pursuant to the Universal Postal Union Convention shall not be higher than fair and reasonable rates for such services. The Secretary of State and the Postmaster General shall oppose any present or proposed Universal Postal Union rates which are higher than such fair and reasonable rates.

(3) The Civil Aeronautics Board shall act expeditiously on any proposed changes in rates for the transportation of mail by aircraft in foreign air transportation. In establishing such rates, the Board shall take into consideration rates paid for transportation of mail pursuant to the Universal Postal Union Convention as ratified by the United States Government, shall take into account all of the rate-making elements employed by the Universal Postal Union in fixing its airmail rates, and shall further consider the competitive disadvantage to United States flag air carriers resulting from foreign air carriers receiving Universal Postal Union rates for the carriage of United States mail and the national origin mail of their own countries. (As amended Pub. L. 93–623, § 4, Jan. 3, 1975, 88 Stat. 2103.)

AMENDMENTS

1975—Subsec. (h). Pub. L. 93–623 designated existing provisions as par. (1), and added pars. (2) and (3).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 39 section 3401.

§ 1377. Accounts, records, and reports.

* * * * *

(e) Inspection of property and accounts.

The Board shall at all times have access to all lands, buildings, and equipment of any air carrier or foreign air carrier and to all accounts, records, and memorandums, including all documents, papers, and correspondence, now or hereafter existing, and kept or required to be kept by air carriers, foreign air carriers, or ticket agents and it may employ special agents or auditors, who shall have authority under the orders of the Board to inspect and examine any and all such lands, buildings, equipment, accounts, records, and memorandums. The provisions of this section shall apply, to the extent found by the Board to be reasonably necessary for the administration of this chapter, to persons having control over any air carrier, or affiliated with any air carrier within the meaning of section 5(8) of this title. (As amended Pub. L. 93–623, § 7(b), Jan. 3, 1975, 88 Stat. 2105.)

AMENDMENTS

1975—Subsec. (e). Pub. L. 93–623 added "or foreign air carrier" after "access to all lands, buildings, and equipment of any carrier", "foreign air carrier, or ticket agents" after "kept or required to be kept by air carriers".

SUBCHAPTER VI.—SAFETY REGULATIONS OF CIVIL AERONAUTICS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1355, 1471, 1472, 1481, 1655 of this title.

§ 1421. Powers and duties of Administrator.

* * * * *

(d) Installation of emergency locator transmitters; aircraft subject to coverage.

(1) Except with respect to aircraft described in paragraph (2) of this subsection, minimum standards pursuant to this section shall include a requirement that emergency locator transmitters shall be installed—

(A) on any fixed-wing, powered civil aircraft for use in air commerce the manufacture of which is completed, or which is imported into the United States, after one year following January 2, 1974; and

(B) on any fixed-wing, powered civil aircraft used in air commerce after three years and six months following such date.

(2) The provisions of this subsection shall not apply to:

(A) Turbojet-powered aircraft;

(B) Aircraft while engaged in scheduled flights by scheduled air carriers certificated by the Board;

(C) Aircraft while engaged in training operations conducted entirely within a fifty-mile radius of the airport from which such local flight operations began;

(D) Aircraft while engaged in flight operations incident to design and testing;

(E) New aircraft while engaged in flight operations incident to their manufacture, preparations, and delivery;

(F) Aircraft while engaged in flight operations incident to the aerial application of chemicals and other substances for agricultural purposes;

(G) Aircraft certificated by the Administrator for research and development purposes;

(H) Aircraft while used for showing compliance with regulations, crew training, exhibition, air racing, or market surveys; and

(I) Aircraft equipped to carry not more than one person.

(d) Aviation fuel standards; establishment, implementation and enforcement.

The Administrator shall prescribe, and from time to time revise, regulations (1) establishing standards governing the composition or the chemical or physical properties of any aircraft fuel or fuel additive for the purpose of controlling or eliminating aircraft emissions which the Administrator of the Environmental Protection Agency (pursuant to section 1857f–9 of Title 42) determines endanger the public health or welfare, and (2) providing for the implementation and enforcement of such standards. (As amended Pub. L. 93–239, § 4, Jan. 2, 1974, 87 Stat. 1048.)

AMENDMENTS

1974—Subsec. (d)(1). Pub. L. 93–239 amended subsec. (d) which was added by Pub. L. 91–596, and substituted "transmitters" for "beacons" in introductory text, "powered civil aircraft" for "powered aircraft" in subpars. (A)

and (B), and "three years and six months" for "three years" in subpar. (B).

Subsec. (d)(2). Pub. L. 93–239, amended subsec. (d) which was added by Pub. L. 91–596, and in revising the provisions making the subsection inapplicable to certain aircraft, substituted provisions designated as subpars. (A) to (I) for prior provisions making the subsection inapplicable to "jet-powered aircraft; aircraft used in air transportation (other than air taxis and charter aircraft); military aircraft; aircraft used solely for training purposes not involving flights more than twenty miles from its base; and aircraft used for the aerial application of chemicals".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1430 of this title.

§ 1422. Airman certificates.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1903 of this title.

§ 1423. Aircraft certificates.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1431 of this title.

§ 1429. Reinspection or reexamination; amendment, suspension, or revocation of certification.

(a) Procedure; notification; hearing; appeal to National Transportation Safety Board; judicial review.

The Administrator may, from time to time, reinspect any civil aircraft, aircraft engine, propeller, appliance, air navigation facility, or air agency, or may reexamine any civil airman. If, as a result of any such reinspection or reexamination, or if, as a result of any other investigation made by the Administrator, he determines that safety in air commerce or air transportation and the public interest requires, the Administrator may issue an order amending, modifying, suspending, or revoking, in whole or in part, any type certificate, production certificate, airworthiness certificate, airman certificate, air carrier operating certificate, air navigation facility certificate (including airport operating certificate), or air agency certificate. Prior to amending, modifying, suspending, or revoking any of the foregoing certificates, the Administrator shall advise the holder thereof as to any charges or other reasons relied upon by the Administrator for his proposed action and, except in cases of emergency, shall provide the holder of such a certificate an opportunity to answer any charges and be heard as to why such certificate should not be amended, modified, suspended, or revoked. Any person whose certificate is affected by such an order of the Administrator under this section may appeal the Administrator's order to the National Transportation Safety Board and the National Transportation Safety Board may, after notice and hearing, amend, modify, or reverse the Administrator's order if it finds that safety in air commerce or air transportation and the public interest do not require affirmation of the Administrator's order. In the conduct of its hearings the National Transportation Safety Board shall not be bound by findings of fact of the Administrator. The filing of an appeal with the National Transportation Safety Board shall stay the effectiveness of the Administrator's order unless the Administartor advises the National Transportation Safety Board that an emergency exists and safety in air commerce or air transportation requires the immediate effectiveness of his order, in which event the order shall remain effective and the National Transportation Safety Board shall finally dispose of the appeal within sixty days after being so advised by the Administrator. The person substantially affected by the National Transportation Safety Board's order may obtain judicial review of said order under the provisions of section 1486 of this title, and the Administrator shall be made a party to such proceedings.

(b) Violation of certain laws.

The Administrator, in his discretion, may issue an order amending, modifying, suspending, or revoking any airman certificate upon conviction of the holder of such certificate of any violation of subsection (a) of section 742j–1 of Title 16, regarding the use or operation of an aircraft. (As amended Pub. L. 92–159, § 2(a), Nov. 18, 1971, 85 Stat. 481; Pub. L. 92–174, § 6, Nov. 27, 1971, 85 Stat. 492.)

AMENDMENTS

1971—Subsec. (a). Pub. L. 92–174 inserted "(including airport operating certificate)" immediately after "air navigation facility certificate".

Pub. L. 92–159 designated existing provisons as subsec. (a) and added subsec. (b).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1431, 1903 of this title.

§ 1430. Violations; exemption of foreign aircraft and airmen.

EFFECTIVE DATE OF 1970 AMENDMENT

Section 51(b)(4) of Pub. L. 91–258, as amended by Pub. L. 92–174, § 5(a), Nov. 27, 1971, 85 Stat. 492, provided that: "The amendments made by paragraph (3) of this subsection [enacting subsec. (a)(8) of this section] shall take effect upon the expiration of the three-year period beginning on the date of their enactment [May 21, 1970]."

§ 1431. Control and abatement of aircraft noise and sonic boom.

(a) Definitions.

For purposes of this section:

(1) The term "FAA" means Administrator of the Federal Aviation Administration.

(2) The term "EPA" means the Administrator of the Environmental Protection.

(b) Consultations; standards; rules and regulations; aircraft certificates.

(1) In order to afford present and future relief and protection to the public health and welfare from aircraft noise and sonic boom, the FAA, after consultation with the Secretary of Transportation and with EPA, shall prescribe and amend standards for the measurement of aircraft noise and sonic boom and shall prescribe and amend such regulations as the FAA may find necessary to provide for the control and abatement of aircraft noise and sonic boom, including the application of such standards and regulations in the issuance, amendment, modification, suspension, or revocation of any certificate authorized by this subchapter. No exemption with respect to any standard or regulation under this section may be granted under any provision of this chapter unless the FAA shall have consulted with EPA before such exemption is granted, except that if the FAA determines that safety in air commerce

or air transportation requires that such an exemption be granted before EPA can be consulted, the FAA shall consult with EPA as soon as practicable after the exemption is granted.

(2) The FAA shall not issue an original type certificate under section 1423(a) of this title for any aircraft for which substantial noise abatement can be achieved by prescribing standards and regulations in accordance with this section, unless he shall have prescribed standards and regulations in accordance with this section which apply to such aircraft and which protect the public from aircraft noise and sonic boom, consistent with the considerations listed in subsection (d) of this section.

(c) Submission of proposed regulations to FAA by EPA; publication; hearing; review of prescribed regulations; report and supplemental report.

(1) Not earlier than the date of submission of the report required by section 4906 of Title 42, EPA shall submit to the FAA proposed regulations to provide such control and abatement of aircraft noise and sonic boom (including control and abatement through the exercise of any of the FAA's regulatory authority over air commerce or transportation or over aircraft or airport operations) as EPA determines is necessary to protect the public health and welfare. The FAA shall consider such proposed regulations submitted by EPA under this paragraph and shall, within thirty days of the date of its submission to the FAA, publish the proposed regulations in a notice of proposed rulemaking. Within sixty days after such publication, the FAA shall commence a hearing at which interested persons shall be afforded an opportunity for oral (as well as written) presentations of data, views, and arguments. Within a reasonable time after the conclusion of such hearing and after consultation with EPA, the FAA shall—

(A) in accordance with subsection (b) of this section, prescribe regulations (i) substantially as they were submitted by EPA, or (ii) which are a modification of the proposed regulations submitted by EPA, or

(B) publish in the Federal Register a notice that it is not prescribing any regulation in response to EPA's submission of proposed regulations, together with a detailed explanation providing reasons for the decision not to prescribe such regulations.

(2) If EPA has reason to believe that the FAA's action with respect to a regulation proposed by EPA under paragraph (1)(A)(ii) or (1)(B) of this subsection does not protect the public health and welfare from aircraft noise or sonic boom, consistent with the considerations listed in subsection (d) of this section, EPA shall consult with the FAA and may request the FAA to review, and report to EPA on, the advisability of prescribing the regulation originally proposed by EPA. Any such request shall be published in the Federal Register and shall include a detailed statement of the information on which it is based. The FAA shall complete the review requested and shall report to EPA within such time as EPA specifies in the request, but such time specified may not be less than ninety days from the date the request was made. The FAA's report shall be accompanied by a detailed statement of the FAA's findings and the reasons for the FAA's conclusions; shall identify any statement filed pursuant to section 4332(2)(C) of Title 42 with respect to such action of the FAA under paragraph (1) of this subsection; and shall specify whether (and where) such statements are available for public inspection. The FAA's report shall be published in the Federal Register, except in a case in which EPA's request proposed specific action to be taken by the FAA, and the FAA's report indicates such action will be taken.

(3) If, in the case of a matter described in paragraph (2) of this subsection with respect to which no statement is required to be filed under such section 4332(2)(C) of Title 42, the report of the FAA indicates that the proposed regulation originally submitted by EPA should not be made, then EPA may request the FAA to file a supplemental report, which shall be published in the Federal Register within such a period as EPA may specify (but such time specified shall not be less than ninety days from the date the request was made), and which shall contain a comparison of (A) the environmental effects (including those which cannot be avoided) of the action actually taken by the FAA in response to EPA's proposed regulations, and (B) EPA's proposed regulations.

(d) Considerations determinative of standards, rules, and regulations.

In prescribing and amending standards and regulations under this section, the FAA shall—

(1) consider relevant available data relating to aircraft noise and sonic boom, including the results of research, development, testing, and evaluation activities conducted pursuant to this chapter and chapter 23 of this title;

(2) consult with such Federal, State, and interstate agencies as he deems appropriate;

(3) consider whether any proposed standard or regulation is consistent with the highest degree of safety in air commerce or air transportation in the public interest;

(4) consider whether any proposed standard or regulation is economically reasonable, technologically practicable, and appropriate for the particular type of aircraft, aircraft engine, appliance, or certificate to which it will apply; and

(5) consider the extent to which such standard or regulation will contribute to carrying out the purposes of this section.

(e) Amendment, modification, suspension, or revocation of certificate; notice and appeal rights.

In any action to amend, modify, suspend, or revoke a certificate in which violation of aircraft noise or sonic boom standards or regulations is at issue, the certificate holder shall have the same notice and appeal rights as are contained in section 1429 of this title, and in any appeal to the National Transportation Safety Board, the Board may amend, modify, or reverse the order of the FAA if it finds that control or abatement of aircraft noise or sonic boom and the public health and welfare do not require the affirmation of such order, or that such order is not consistent with safety in air commerce or air trans-

portation. (As amended Pub. L. 92–574, § 7(b) Oct. 27, 1972, 86 Stat. 1239.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–574 added subsec. (a). Former subsec. (a) redesignated (b)(1).

Subsec. (b)(1). Pub. L. 92–574 redesignated former subsec. (a) as subsec. (b)(1) and in subsec. (b)(1) as so redesignated added requirement that the Administrator of the Federal Aviation Administration consult with the Administrator of the Environmental Protection Agency before prescribing and amending standards and added provisions for consultation in connection with the grant of exemptions with respect to standards and regulations under this section. Former subsec. (b) redesignated (d).

Subsec. (b)(2). Pub. L. 92–574 added subsec. (b)(2). Former subsec. (b) redesignated (d).

Subsec. (c). Pub. L. 92–574 added subsec. (c). Former subsec. (c) redesignated (e).

Subsec. (d). Pub. L. 92–574 redesignated former subsec. (b) as (d).

Subsec. (e). Pub. L. 92–574 redesignated former subsec. (c) as (e).

SAVINGS PROVISION

Section 7(c) of Pub. L. 92–574 provided that:

"All—

"(1) standards, rules, and regulations prescribed under section 611 of the Federal Aviation Act of 1958 [this section], and

"(2) exemptions, granted under any provision of the Federal Aviation Act of 1958 [this chapter], with respect to such standards, rules, and regulations,

which are in effect on the date of the enactment of this Act [Oct. 27, 1972], shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Administrator of the Federal Aviation Administration in the exercise of any authority vested in him, by a court of competent jurisdiction, or by operation of law."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1903 of this title; title 42 sections 4903, 4911, 4915.

§ 1432. Airport operating certificates.

* * * * *

(b) Issuance; terms and conditions.

Any person desiring to operate an airport serving air carriers certificated by the Civil Aeronautics Board may file with the Administrator an application for an airport operating certificate. If the Administrator finds, after investigation, that such person is properly and adequately equipped and able to conduct a safe operation in accordance with the requirements of this chapter and the rules, regulations, and standards prescribed thereunder, he shall issue an airport operating certificate to such person. Each airport operating certificate shall prescribe such terms, conditions, and limitations as are reasonably necessary to assure safety in air transportation. Unless the Administrator determines that it would be contrary to the public interest, such terms, conditions, and limitations shall include but not be limited to terms, conditions, and limitations relating to the operation and maintenance of adequate safety equipment, including firefighting and rescue equipment capable of rapid access to any portion of the airport used for the landing, takeoff, or surface maneuvering of aircraft. (As amended Pub. L. 92–174, § 5(b), Nov. 27, 1971, 85 Stat. 492.)

AMENDMENTS

1971—Subsec. (b). Pub. L. 92–174 struck out requirement that airport operating certificates prescribe the terms, conditions, and limitations relating to the installation, operation, and maintenance of adequate air navigation facilities and removed the requirement that each airport operating certificate prescribe terms, conditions, and limitations relating to the operation and maintenance of adequate safety equipment in cases where the Administrator determines that it would be contrary to the public interest to so require such terms, conditions, and limitations.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1711, 1717 of this title.

SUBCHAPTER VII.—AIRCRAFT ACCIDENT INVESTIGATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1352, 1471, 1472, 1655, 1903 of this title.

SUBCHAPTER VIII.—OTHER ADMINISTRATIVE AGENCIES

§ 1461. The President of the United States; suspension and rejection of rates in foreign air transportation.

(a) The issuance, denial, transfer, amendment, cancellation, suspension, or revocation of, and the terms, conditions, and limitations contained in, any certificate authorizing an air carrier to engage in overseas or foreign air transportation, or air transportation between places in the same Territory or possession, or any permit issuable to any foreign air carrier under section 1372 of this title, shall be subject to the approval of the President. Copies of all applications in respect of such certificates and permits shall be transmitted to the President by the Board before hearing thereon, and all decisions thereon by the Board shall be submitted to the President before publication thereof.

(b) Any order of the Board pursuant to section 1482(j) of this title suspending, rejecting, or canceling a rate, fare, or charge for foreign transportation, and any order rescinding the effectiveness of any such order, shall be submitted to the President before publication thereof. The President may disapprove any such order when he finds that disapproval is required for reasons of the national defense or the foreign policy of the United States not later than ten days following submission by the Board of any such order to the President. (As amended Pub. L. 92–259, § 2, Mar. 22, 1972, 86 Stat. 96.)

AMENDMENTS

1972—Pub. L. 92–259 designated existing provisions as subsec. (a) and added subsec. (b).

INTERNATIONAL AGREEMENTS

Subsec. (b) of this section not to be deemed to authorize any actions inconsistent with the provisions of section 1502 of this title, see section 4 of Pub. L. 92–259, set out as a note under section 1482 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1486 of this title.

§ 1463. Weather Bureau.

TRANSFER OF FUNCTIONS

The Environmental Science Services Administration in the Department of Commerce, including the offices of the Administrator and Deputy Administrator thereof, were abolished by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, Government Organization and Employees, which created the National Oceanic and Atmospheric Administration in the Department of Commerce and transferred the personnel, property, records, and unexpended balances

of funds of the Environmental Science Services Administration to such newly created National Oceanic and Atmospheric Administration. The components of the Environmental Science Services Administration thus transferred included the Weather Bureau [now the National Weather Service], the Coast and Geodetic Survey [now the National Ocean Survey], the Environmental Data Service, the National Environmental Satellite Center, and the ESSA Research Laboratories.

SUBCHAPTER IX.—PENALTIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1655 of this title.

§ 1471. Civil penalties; compromise; liens.

(a)(1) Any person who violates (A) any provision of subchapter III, IV, V, VI, VII, or XII of this chapter or of section 1514 of this title or any rule, regulation, or order issued thereunder, or under section 1482(i) of this title, or any term, condition, or limitation of any permit or certificate issued under subchapter IV of this chapter, or (B) any rule or regulation issued by the Postmaster General under this chapter, shall be subject to a civil penalty of not to exceed $1,000 for each such violation, except that the amount of such civil penalty shall not exceed $10,000 for each such violation which relates to the transportation of hazardous materials. If such violation is a continuing one, each day of such violation shall constitute a separate offense. The amount of any such civil penalty which relates to the transportation of hazardous materials shall be assessed by the Secretary, or his delegate, upon written notice upon a finding of violation by the Secretary, after notice and an opportunity for a hearing. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the person found to have committed such violation, the degree of culpability, any history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice may require. This subsection shall not apply to members of the Armed Forces of the United States, or those civilian employees of the Department of Defense who are subject to the provisions of the Uniform Code of Military Justice, while engaged in the performance of their official duties; and the appropriate military authorities shall be responsible for taking any necessary disciplinary action with respect thereto and for making to the Administrator or Board, as appropriate, a timely report of any such action taken.

* * * * *

(As amended Pub. L. 93–366, title I, § 107, Aug. 5, 1974, 88 Stat. 414; Pub. L. 93–633, title I, § 113(b), Jan. 3, 1975, 88 Stat. 2162.)

AMENDMENTS

1975—Subsec. (a)(1). Pub. L. 93–633 limited the amount of the civil penalty to $10,000 for each violation which relates to the transportation of hazardous materials, and provided for assessment of the civil penalty relating to transportation of hazardous materials and consideration of stated criteria in determining the amount of the penalty.

1974—Subsec. (a)(1). Pub. L. 93–366 added reference to section 1514 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT; CONTINUANCE OF PRIOR PROVISIONS; TWO YEAR LIMITATION AFTER JAN. 3, 1975, FOR ARRANGEMENTS, INCLUDING LICENSES, ETC., TO COMPLY WITH PUB. L. 93–633; PENDING PROCEEDINGS UNAFFECTED

Amendment by Pub. L. 93–633 effective Jan. 3, 1975, except as otherwise provided, see section 114 of Pub. L. 93–633, set out as a note under section 1801 of this title.

§ 1472. Criminal penalties.

* * * * *

(d) Offering, granting, giving, soliciting, or accepting rebates or concessions.

(1) Any air carrier, foreign air carrier, or ticket agent, or any officer, agent, employee, or representative thereof, who shall, knowingly and willfully, offer, grant, or give, or cause to be offered, granted, or given, any rebate or other concession in violation of the provisions of this chapter, or who, by any device or means, shall, knowingly and willfully, assist, or shall willingly suffer or permit, any person to obtain transportation or services subject to this chapter at less than the rates, fares, or charges lawfully in effect, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be subject for each offense to a fine of not less than $100 and not more than $5,000.

(2) Any person who, in any manner or by any device, knowingly and willfully solicits, accepts, or receives a refund or remittance of any portion of the rates, fares, or charges lawfully in effect for the air transportation of property, or for any service in connection therewith, or knowingly solicits, accepts, or receives any privilege, favor, or facility, with respect to matters required by the Board to be specified in currently effective tariffs applicable to the air transportation of property, shall be fined not less than $100, nor more than $5,000, for each offense.

* * * * *

(h) Safe transportation of hazardous materials.

(1) In carrying out his responsibilities under this chapter, the Secretary of Transportation may exercise the authority vested in him by section 1804 of this title to provide by regulation for the safe transportation of hazardous materials by air.

(2) A person is guilty of an offense if he willfully delivers or causes to be delivered to an air carrier or to the operator of a civil aircraft for transportation in air commerce, or if he recklessly causes the transportation in air commerce of, any shipment, baggage, or other property which contains a hazardous material, in violation of any rule, regulation, or requirement with respect to the transportation of hazardous materials issued by the Secretary of Transportation under this chapter. Upon conviction, such person shall be subject, for each offense, to a fine of not more than $25,000, imprisonment for a term not to exceed 5 years, or both.

(3) Nothing in this subsection shall be construed to prohibit or regulate the transportation by any individual, for personal use, of any firearm (as defined in paragraph (4) of section 232 of Title 18), or any ammunition therefor.

(i) Aircraft piracy.

(1) Whoever commits or attempts to commit aircraft piracy, as herein defined, shall be punished—

(A) by imprisonment for not less than 20 years; or

(B) if the death of another person results from the commission or attempted commission of the offense, by death or by imprisonment for life.

(2) As used in this subsection, the term "aircraft piracy" means any seizure or exercise of control, by force or violence or threat of force or violence, or by any other form of intimidation, and with wrongful intent, of an aircraft within the special aircraft jurisdiction of the United States.

(3) An attempt to commit aircraft piracy shall be within the special aircraft jurisdiction of the United States even though the aircraft is not in flight at the time of such attempt if the aircraft would have been within the special aircraft jurisdiction of the United States had the offense of aircraft piracy been completed.

* * * * *

(*l*) Carrying weapons or explosives aboard aircraft.

(1) Whoever, while aboard, or while attempting to board, any aircraft in, or intended for operation in, air transportation or intrastate air transportation, has on or about his person or his property a concealed deadly or dangerous weapon, which is, or would be, accessible to such person in flight, or any person who has on or about his person, or who has placed, attempted to place, or attempted to have placed aboard such aircraft any bomb, or similar explosive or incendiary device, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

(2) Whoever willfully and without regard for the safety of human life, or with reckless disregard for the safety of human life, shall commit an act prohibited by paragraph (1) of this subsection, shall be fined not more than $5,000 or imprisoned not more than five years, or both.

(3) This subsection shall not apply to law enforcement officers of any municipal or State government, or the Federal Government, who are authorized or required within their official capacities to carry arms, or to persons who may be authorized, under regulations issued by the Administrator, to carry deadly or dangerous weapons in air transportation or intrastate air transportation; nor shall it apply to persons transporting weapons contained in baggage which is not accessible to passengers in flight if the presence of such weapons has been declared to the air carrier.

* * * * *

(n) Aircraft piracy outside special aircraft jurisdiction of the United States.

(1) Whoever aboard an aircraft in flight outside the special aircraft jurisdiction of the United States commits "an offense", as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft, and is afterward found in the United States shall be punished—

(A) by imprisonment for not less than 20 years; or

(B) if the death of another person results from the commission or attempted commission of the offense, by death or by imprisonment for life.

(2) A person commits "an offense", as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft when, while aboard an aircraft in flight, he—

(A) unlawfully, by force or threat thereof, or by any other form of intimidation, seizes, or exercises control of, that aircraft, or attempts to perform any such act; or

(B) is an accomplice of a person who performs or attempts to perform any such act.

(3) This subsection shall only be applicable if the place of takeoff or the place of actual landing of the aircraft on board which the offense, as defined in paragraph (2) of this subsection, is committed is situated outside the territory of the State of registration of that aircraft.

(4) For purposes of this subsection an aircraft is considered to be in flight from the moment when all the external doors are closed following embarkation until the moment when one such door is opened for disembarkation, or in the case of a forced landing, until the competent authorities take over responsibility for the aircraft and for the persons and property aboard.

(*o*) Investigations by Federal Bureau of Investigation.

Violations of subsections (i) through (n), inclusive, of this section shall be investigated by the Federal Bureau of Investigation of the Department of Justice.

(p) Interference with aircraft accident jurisdiction.

Any person who knowingly and without authority removes, conceals, or withholds any part of a civil aircraft involved in an accident, or any property which was aboard such aircraft at the time of the accident, shall be subject to a fine of no less than $100 nor more than $5,000, or imprisonment for not more than one year, or both. (As amended Pub. L. 93–366, title I, §§ 103, 104, title II, § 203, Aug. 5, 1974, 88 Stat. 410, 411, 417; Pub. L. 93–623, § 8(b), Jan. 3, 1975, 88 Stat. 2105; Pub. L. 93–633, title I, § 113(c), Jan. 3, 1975, 88 Stat. 2162.)

AMENDMENTS

1975—Subsec. (d). Pub. L. 93–623 designated existing provisions as par. (1), and added par. (2).

Subsec. (h). Pub. L. 93–633 added par. (1) authorization of the Secretary of Transportation to provide by regulation for safe transportation of hazardous materials by air; incorporated former par. (1) provisions in par. (2), substituted willfulness for knowingly and included recklessness as elements of the offense, substituted provision for application of the offense to hazardous materials rather than to explosives or other dangerous articles, increased the limits of the penalty to $25,000 and to five years imprisonment or both for prior limitations set at $1,000 or one year imprisonment or both and set at $10,000 or ten years imprisonment or both in cases of death or bodily injury resulting from an offense hereunder; deleted former par. (2) authorization of Administrator adoption and termination of regulations of the Interstate Commerce Commission relating to transportation, etc., of explosives or other dangerous articles to shipment and carriage by air of such articles, and made such regulations the regulations of the Administrator; and added par. (3) provisions respecting transportation of firearms and ammunition therefor for personal use.

1974—Subsec. (l)(1). Pub. L. 93–366, § 104(a), substituted provisions authorizing the imposition of imprisonment for not less than 20 years, or the death penalty or life imprisonment, where the death of another person resulted from the commission or attempted commission of the offense, for provisions authorizing the imposition of the death penalty if the verdict of the jury so recommended, or, in the case of guilty plea, or a not guilty plea where the defendant waived a jury trial, if the court in its discretion so ordered, or imprisonment for not less than 20 years, if the death penalty was not imposed.

Subsec. (i)(2). Pub. L. 93–366, § 103(a), added "or by any other form of intimidation" following "threat of force or violence".

Subsec. (i)(3). Pub. L. 93–366, § 104(b), added subsec. (i)(3).

Subsec. (*l*) Pub. L. 93–366, § 203, reorganized former provisions by designating prohibited activities as cl. (1) and, as so designated added requirement that weapon is, or would be, accessible in flight and expanded activities subject to penalties to include placing, attempting to place, etc., aboard the aircraft any bomb, or similar explosive or incendiary device, and designating exceptions as cl. (3) and, as so designated, added exception relating to weapons not accessible to passengers in flight if their presence was declared to the air carrier, and added provisions designated as cl. (2).

Subsec. (n). Pub. L. 93–366, § 103(b), added subsec. (n). Former subsec. (n) redesignated (*o*).

Subsec. (*o*). Pub. L. 93–366, § 103(b), (c), redesignated former subsec. (n) as (*o*) and, so redesignated, substituted "(n)" for "(m). Former subsec. (*o*) redesignated as (p).

Subsec. (p). Pub. L. 93–366, § 103(b), redesignated former subsec. (*o*) as (p).

EFFECTIVE DATE OF 1975 AMENDMENT; CONTINUANCE OF PRIOR PROVISIONS; TWO YEAR LIMITATION AFTER JAN. 3, 1975, FOR ARRANGEMENTS, INCLUDING LICENSES, ETC., TO COMPLY WITH PUB. L. 93–633; PENDING PROCEEDINGS UNAFFECTED

Amendment by Pub. L. 93–633 effective Jan. 3, 1975, except as otherwise provided, see section 114 of Pub. L. 93–633, set out as a note under section 1801 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1357, 1473 of this title.

§ 1473. Venue and prosecution of offenses; procedures in respect of civil and aircraft piracy penalties.

* * * * *

(c)(1) A person shall be subjected to the penalty of death for any offense prohibited by section 1472 (i) or 1472(n) of this title only if a hearing is held in accordance with this subsection.

(2) When a defendant is found guilty of or pleads guilty to an offense under section 1472(i) or 1472(n) of this title for which one of the sentences provided is death, the judge who presided at the trial or before whom the guilty plea was entered shall conduct a separate sentencing hearing to determine the existence or nonexistence of the factors set forth in paragraphs (6) and (7), for the purpose of determining the sentence to be imposed The hearing shall not be held if the Government stipulates that none of the aggravating factors set forth in paragraph (7) exists or that one or more of the mitigating factors set forth in paragraph (6) exists. The hearings shall be conducted—

(A) before the jury which determined the defendant's guilt;

(B) before a jury impaneled for the purpose of the hearing if—

(i) the defendant was convicted upon a plea of guilty;

(ii) the defendant was convicted after a trial before the court sitting without a jury; or

(iii) the jury which determined the defendant's guilt has been discharged by the court for good cause; or

(C) before the court alone, upon the motion of the defendant and with the approval of the court and of the Government.

(3) In the sentencing hearing the court shall disclose to the defendant or his counsel all material contained in any presentence report, if one has been prepared, except such material as the court determines is required to be withheld for the protection of human life or for the protection of the national security. Any presentence information withheld from the defendant shall not be considered in determining the existence or the nonexistence of the factors set forth in paragraph (6) or (7). Any information relevant to any of the mitigating factors set forth in paragraph (6) may be presented by either the Government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials; but the admissibility of information relevant to any of the aggravating factors set forth in paragraph (7) shall be governed by the rules governing the admission of evidence at criminal trials. The Government and the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any of the factors set forth in paragraph (6) or (7). The burden of establishing the existence of any of the factors set forth in paragraph (7) is on the Government. The burden of establishing the existence of any of the factors set forth in paragraph (6) is on the defendant.

(4) The jury or, if there is no jury, the court shall return a special verdict setting forth its findings as to the existence or nonexistence of each of the factors set forth in paragraph (6) and as to the existence or nonexistence of each of the factors set forth in paragraph (7).

(5) If the jury or, if there is no jury, the court finds by a preponderance of the information that one or more of the factors set forth in paragraph (7) exists and that none of the factors set forth in paragraph (6) exists, the court shall sentence the defendant to death. If the jury or, if there is no jury, the court finds that none of the aggravating factors set forth in paragraph (7) exists, or finds that one or more of the mitigating factors set forth in paragraph (6) exists, the court shall not sentence the defendant to death but shall impose any other sentence provided for the offense for which the defendant was convicted.

(6) The court shall not impose the sentence of death on the defendant if the jury or, if there is no jury, the court finds by a special verdict as provided in paragraph (4) that at the time of the offense—

(A) he was under the age of eighteen;

(B) his capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired, but not so impaired as to constitute a defense to prosecution;

(C) he was under unusual and substantial duress, although not such duress as to constitute a defense to prosecution;

(D) he was a principal (as defined in section 2(a) of Title 18) in the offense, which was committed by another, but his participation was relatively minor, although not so minor as to constitute a defense to prosecution; or

(E) he could not reasonably have foreseen that his conduct in the course of the commission of the offense for which he was convicted would cause, or would create a grave risk of causing death to another person.

(7) If no factor set forth in paragraph (6) is present, the court shall impose the sentence of death on the defendant if the jury or, if there is no jury, the court finds by a special verdict as provided in paragraph (4) that—

(A) the death of another person resulted from the commission of the offense but after the defendant had seized or exercised control of the aircraft; or

(B) the death of another person resulted from the commission or attempted commission of the offense, and—

(i) the defendant has been convicted of another Federal or State offense (committed either before or at the time of the commission or attempted commission of the offense) for which a sentence of life imprisonment or death was imposable;

(ii) the defendant has previously been convicted of two or more State or Federal offenses with a penalty of more than one year imprisonment (committed on different occasions before the time of the commission or attempted commission of the offense), involving the infliction of serious bodily injury upon another person;

(iii) in the commission or attempted commission of the offense, the defendant knowingly created a grave risk of death to another person in addition to the victim of the offense or attempted offense; or

(iv) the defendant committed or attempted to commit the offense in an especially heinous, cruel, or depraved manner.

(As amended Pub. L. 93–366, title I, § 105, Aug. 5, 1974, 88 Stat. 411.)

AMENDMENTS

1974—Subsec. (c). Pub. L. 93–366 added subsec. (c).

SUBCHAPTER X.—PROCEDURE

§ 1482. Complaints to and investigations by the Administrator and the Board.

* * * * *

(j) Suspension and rejection of rates in foreign air transportation.

(1) Whenever any air carrier or foreign air carrier shall file with the Board a tariff stating a new individual or joint (between air carriers, between foreign air carriers, or between an air carrier or carriers and a foreign air carrier or carriers) rate, fare, or charge for foreign air transportation or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder the Board is empowered, upon complaint or upon its own initiative, at once, and, if it so orders, without answer or other formal pleading by the air carrier or foreign air carrier, but upon reasonable notice, to enter upon a hearing concerning the lawfulness of such rate, fare, or charge, or such classification, rule, regulation, or practice; and pending such hearing and the decision thereon, the Board, by filing with such tariff, and delivering to the air carrier or foreign air carrier affected thereby, a statement in writing of its reasons for such suspension, may suspend the operation of such tariff and defer the use of such rate, fare, or charge, or such classification, rule, regulation, or practice, for a period or periods not exceeding three hundred and sixty-five days in the aggregate beyond the time when such tariff would otherwise go into effect. If, after hearing, the Board shall be of the opinion that such rate, fare, or charge, or such classification, rule, regulation, or practice, is or will be unjust or unreasonable, or unjustly discriminatory, or unduly preferential, or unduly prejudicial, the Board may take action to reject or cancel such tariff and prevent the use of such rate, fare, or charge, or such classification, rule, regulation, or practice. The Board may at any time rescind the suspension of such tariff and permit the use of such rate, fare, or charge, or such classification, rule, regulation, or practice. If the proceeding has not been concluded and an order made within the period of suspension or suspensions, or if the Board shall otherwise so direct, the proposed rate, fare, charge, classification, rule, regulation, or practice shall go into effect subject, however, to being canceled when the proceeding is concluded. This paragraph shall not apply to any initial tariff filed by an air carrier or foreign air carrier. During the period of any suspension or suspensions, or following rejection or cancellation of a tariff, including tariffs which have gone into effect provisionally, the affected air carrier or foreign air carrier shall maintain in effect and use the rate, fare, or charge, or the classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of service thereunder, which was in effect immediately prior to the filing of the new tariff.

(2) With respect to any existing tariff of an air carrier or foreign air carrier stating rates, fares, or charges for foreign air transportation, or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, the Board is empowered, upon complaint or upon its own initiative, at once and, if it so orders, without answer or other formal pleading by the air carrier or foreign air carrier, but upon reasonable notice, to enter into a hearing concerning the lawfulness of such rate, fare, or charge, or such classification, rule, regulation, or practice; and pending such hearing and the decision thereon, the Board, upon reasonable notice, and by filing with such tariff, and delivering to the air carrier or foreign air carrier affected thereby, a statement in writing of its reasons for such suspension, and the effective date thereof, may suspend the operation of such tariff and defer the use of such rate, fare, or charge, or such classification, rule, regulation, or practice, following the effective date of such suspension, for a period or periods not exceeding three hundred and sixty-five days in the aggregate from the effective date of such suspension. If, after hearing, the Board shall be of the opinion that such rate, fare, or charge, or such classification, rule, regulation, or practice, is or will be unjust or unreasonable, or unjustly discriminatory, or unduly preferential, or unduly

prejudicial, the Board may take action to cancel such tariff and prevent the use of such rate, fare, or charge, or such classification, rule, regulation, or practice. If the proceeding has not been concluded within the period of suspension or suspensions, the tariff shall again go into effect subject, however, to being canceled when the proceeding is concluded. For the purposes of operation during the period of such suspension, or the period following cancellation of an existing tariff pending effectiveness of a new tariff, the air carrier or foreign air carrier may file a tariff embodying any rate, fare, or charge, or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, that may be currently in effect (and not subject to a suspension order) for any air carrier engaged in the same foreign air transportation.

(3) Whenever the Board finds that the government or aeronautical authorities of any foreign country have refused to permit the charging of rates, fares, or charges contained in a properly filed and published tariff of an air carrier filed under this chapter for foreign air transportation to such foreign country, the Board may, without hearing, (A) suspend the operation of any existing tariff of any foreign air carrier providing services between the United States and such foreign country for a period or periods not exceeding three hundred and sixty-five days in the aggregate from the date of such suspension, and (B) during the period of such suspension or suspensions, order the foreign air carrier to charge rate, fares, or charges which are the same as those contained in a properly filed and published tariff (designated by the Board) of an air carrier filed under this chapter for foreign air transportation to such foreign country, and the effective right of an air carrier to start or continue service at the designated rates, fares, or charges to such foreign country shall be a condition to the continuation of service by the foreign air carrier in foreign air transportation to such foreign country.

(4) The provisions of this subsection and compliance with any order of the Board issued pursuant thereto shall be an express condition to the certificates or permits now held or hereafter issued to any air carrier or foreign air carrier, and the maintenance of rates, fares, or charges in conformity with the requirements of such provisions and such order of the Board shall be a condition to the continuation of the affected service by such air carrier or foreign air carrier.

(5) In exercising and performing its powers and duties under this subsection with respect to the rejection or cancellation of rates for the carriage of persons or property, the Board shall take into consideration, among other factors—

(A) the effect of such rates upon the movement of traffic;

(B) the need in the public interest of adequate and efficient transportation of persons and property by air carriers and foreign air carriers at the lowest cost consistent with the furnishing of such service;

(C) such standards respecting the character and quality of service to be rendered by air carriers and foreign air carriers as may be prescribed by or pursuant to law;

(D) the inherent advantages of transportation by aircraft;

(E) the need of such air carrier and foreign air carrier for revenue sufficient to enable such air carrier and foreign air carrier, under honest, economical, and efficient management, to provide adequate and efficient air carrier and foreign air carrier service; and

(F) whether such rates will be predatory or tend to monopolize competition among air carriers and foreign air carriers in foreign air transportation.

(As amended Pub. L. 92–259, § 3(a), Mar. 22, 1972, 86 Stat. 96.)

AMENDMENTS

1972—Subsec. (j). Pub. L. 92–259 added subsec. (j).

INTERNATIONAL AGREEMENTS

Section 4 of Pub. L. 92–259 provided that: "The amendments made by this Act [adding subsec. (j) of this section and sections 1374(a)(2) and 1461(b) of this title] shall not be deemed to authorize any actions inconsistent with the provision of section 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1502)."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1429, 1461, 1471 of this title.

§ 1487. Judicial enforcement; jurisdiction; application; costs.

(a) If any person violates any provision of this chapter, or any rule, regulation, requirement, or order thereunder, or any term, condition, or limitation of any certificate or permit issued under this chapter, the Board or Administrator, as the case may be, their duly authorized agents, or, in the case of a violation of section 1514 of this title, the Attorney General, or, in the case of a violation of section 1371(a) of this title, any party in interest, may apply to the district court of the United States, for any district wherein such person carries on his business or wherein the violation occurred, for the enforcement of such provision of this chapter, or of such rule, regulation, requirement, order, term, condition, or limitation; and such court shall have jurisdiction to enforce obedience thereto by a writ of injunction or other process, mandatory or otherwise, restraining such person, his officers, agents, employees, and representatives from further violation of such provision of this chapter or of such rule regulation, requirement, order, term, condition or limitation, and requiring their obedience thereto.

* * * * *

(As amended Pub. L. 93–366, title I, § 108, Aug. 5, 1974, 88 Stat. 414.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–366 added provision relating to the enforcement authority of the Attorney General in the case of a violation under section 1514 of this title.

SUBCHAPTER XI.—MISCELLANEOUS

§ 1501. Hazards to air commerce.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1655 of this title.

§ 1502. International agreements.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1514 of this title.

§ 1505. Cooperation with government agencies.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1655 of this title.

§ 1511. Authority to refuse transportation; grounds; agreements for carriage of persons or property deemed to include agreements to refuse carriage upon refusal of consent to search.

(a) The Administrator shall, by regulation, require any air carrier, intrastate air carrier, or foreign air carrier to refuse to transport—

(1) any person who does not consent to a search of his person, as prescribed in section 1356(a) of this title, to determine whether he is unlawfully carrying a dangerous weapon, explosive, or other destructive substance, or

(2) any property of any person who does not consent to a search or inspection of such property to determine whether it unlawfully contains a dangerous weapon, explosive, or other destructive substance.

Subject to reasonable rules and regulations prescribed by the Administrator, any such carrier may also refuse transportation of a passenger or property when, in the opinion of the carrier, such transportation would or might be inimical to safety of flight.

(b) Any agreement for the carriage of persons or property in air transportation or intrastate air transportation by an air carrier, intrastate air carrier, or foreign air carrier for compensation or hire shall be deemed to include an agreement that such carriage shall be refused when consent to search such persons or inspect such property for the purposes enumerated in subsection (a) of this section is not given. (As amended Pub. L. 93–366, title II, § 204, Aug. 5, 1974, 88 Stat. 418.)

AMENDMENTS

1974—Pub. L. 93–366 designated existing provisions as subsec. (a) and, as so designated, added authorization of Administrator to refuse transportation to any person or any property of any person where consent to the search of such person or property was not given, and added subsec. (b).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1655 of this title.

§ 1512. State or subdivision income tax withholding on compensation paid to interstate air carrier employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 26 section 6362.

§ 1513. State taxation of air commerce.

(a) Prohibition; exemption.

No State (or political subdivision thereof, including the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the District of Columbia, the territories or possessions of the United States or political agencies of two or more States) shall levy or collect a tax, fee, head charge, or other charge, directly or indirectly, on persons traveling in air commerce or on the carriage of persons traveling in air commerce or on the sale of air transportation or on the gross receipts derived therefrom; except that any State (or political subdivision thereof, including the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the District of Columbia, the territories or possessions of the United States or political agencies of two or more States) which levied a tax, fee, head charge, or other charge, directly or indirectly, on persons traveling in air commerce or on the carriage of persons traveling in air commerce or on the sale of air transportation or on the gross receipts derived therefrom prior to May 21, 1970, shall be exempt from the provisions of this subsection until December 31, 1973.

(b) Permissible State taxes and fees.

Nothing in this section shall prohibit a State (or political subdivision thereof, including the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the District of Columbia, the territories or possessions of the United States or political agencies of two or more States) from the levy or collection of taxes other than those enumerated in subsection (a) of this section, including property taxes, net income taxes, franchise taxes, and sales or use taxes on the sale of goods or services; and nothing in this section shall prohibit a State (or political subdivision thereof, including the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the District of Columbia, the territories or possessions of the United States or political agencies of two or more States) owning or operating an airport from levying or collecting reasonable rental charges, landing fees, and other service charges from aircraft operators for the use of airport facilities.

(c) Nonapplicability of subsection (a) to airport operating authority until December 31, 1973.

In the case of any airport operating authority which—

(1) has an outstanding obligation to repay a loan or loans of amounts borrowed and expended for airport improvements;

(2) is collecting without air carrier assistance, a head tax on passengers in air transportation for the use of its facilities; and

(3) has no authority to collect any other type of tax to repay such loan or loans,

the provisions of subsection (a) of this section shall not apply to such authority until December 31, 1973. (Pub. L. 85–726, title XI, § 1113, as added Pub. L. 93–44, § 7(a), June 18, 1973, 87 Stat. 90.)

§ 1514. Suspension of air services by President; grounds; authority of President deemed condition to issuance of certificate of public convenience and necessity, etc.; unlawful activities.

(a) Whenever the President determines that a foreign nation is acting in a manner inconsistent with the Convention for the Suppression of Unlawful Seizure of Aircraft, or if he determines that a foreign nation permits the use of territory under its jurisdiction as a base of operations or training or as a sanctuary for, or in any way arms, aids, or abets, any terrorist organization which knowingly uses the illegal seizure of aircraft or the threat thereof as an instrument of policy, he may, without notice or hearing and for as long as he determines necessary to assure the security of aircraft against unlawful seizure, suspend (1) the right of any air carrier or foreign air carrier to engage in foreign air transportation, and the right of any person to operate aircraft in foreign air commerce, to and from that

foreign nation, and (2) the right of any foreign air carrier to engage in foreign air transportation, and the right of any foreign person to operate aircraft in foreign air commerce, between the United States and any foreign nation which maintains air service between itself and that foreign nation. Notwithstanding section 1502 of this title, the President's authority to suspend rights under this section shall be deemed to be a condition to any certificate of public convenience and necessity or foreign air carrier or foreign aircraft permit issued by the Civil Aeronautics Board and any air carrier operating certificate or foreign air carrier operating specification issued by the Secretary of Transportation .

(b) It shall be unlawful for any air carrier or foreign air carrier to engage in foreign air transportation, or for any person to operate aircraft in foreign air commerce, in violation of the suspension of rights by the President under this section. (Pub. L. 85–726, title XI, § 1114, as added Pub. L. 93–366, title I, § 106, Aug. 5, 1974, 88 Stat. 413.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1471, 1487 of this title.

§ 1515. Security standards in foreign air transportation; notice to foreign nation by Secretary of State of standards requirements; determination by Secretary of Transportation and notice to foreign nations of compliance with minimum standards and necessary remedial measures; effect of failure to take remedial measures.

(a) Not later than 30 days after August 5, 1974, the Secretary of State shall notify each nation with which the United States has a bilateral air transport agreement or, in the absence of such agreement, each nation whose airline or airlines hold a foreign air carrier permit or permits issued pursuant to section 1372 of this title, of the provisions of subsection (b) of this section.

(b) In any case where the Secretary of Transportation, after consultation with the competent aeronautical authorities of a foreign nation with which the United States has a bilateral air transport agreement and in accordance with the provisions of that agreement or, in the absence of such agreement, of a nation whose airline or airlines hold a foreign air carrier permit or permits issued pursuant to section 1372 of this title, finds that such nation does not effectively maintain and administer security measures relating to transportation of persons or property or mail in foreign air transportation that are equal to or above the minimum standards which are established pursuant to the Convention on International Civil Aviation, he shall notify that nation of such finding and the steps considered necessary to bring the security measures of that nation to standards at least equal to the minimum standards of such convention. In the event of failure of that nation to take such steps, the Secretary of Transportation, with the approval of the Secretary of State, may withhold, revoke, or impose conditions on the operating authority of the airline or airlines of that nation. (Pub. L. 85–726, title XI, § 1115, as added Pub. L. 93–366, title I, § 106, Aug. 5, 1974, 88 Stat. 414.)

§ 1516. Property not lawfully transportable in aircraft cabin transported as baggage; liability of air carrier for loss or damage; terms and conditions of liability.

The Civil Aeronautics Board shall issue such regulations or orders as may be necessary to require that any air carrier receiving for transportation as baggage any property of a person traveling in air transportation, which property cannot lawfully be carried by such person in the aircraft cabin by reason of any Federal law or regulation, shall assume liability to such person, at a reasonable charge and subject to reasonable terms and conditions, within the amount declared to the air carrier by such person, for the full actual loss or damage to such property caused by such air carrier. (Pub. L. 85–726, title XI, § 1116, as added Pub. L. 93–366, title II, § 205, Aug. 5, 1974, 88 Stat. 418.)

§ 1517. Transportation of government-financed passengers and property by certified carriers; disallowance of payments by Comptroller General.

Whenever any executive department or other agency or instrumentality of the United States shall procure, contract for, or otherwise obtain for its own account or in furtherance of the purposes or pursuant to the terms of any contract, agreement, or other special arangement made or entered into under which payment is made by the United States or payment is made from funds appropriated, owned, controlled, granted, or conditionally granted or utilized by or otherwise established for the account of the United States, or shall furnish to or for the account of any foreign nation, or any international agency, or other organization, of whatever nationality, without provisions for reimbursement, any transportation of persons (and their personal effects) or property by air between a place in the United States and a place outside thereof or between two places both of which are outside the United States, the appropriate agency or agencies shall take such steps as may be necessary to assure that such transportation is provided by air carriers holding certificates under section 1371 of this title to the extent authorized by such certificates or by regulations or exemption of the Civil Aeronautics Board and to the extent service by such carriers is available. The Comptroller General of the United States shall disallow any expenditure from appropriated funds for payment for such personnel or cargo transportation on an air carrier not holding a certificate under section 1371 of this title in the absence of satisfactory proof of the necessity therefor. Nothing in this section shall prevent the application to such traffic of the antidiscrimination provisions of this chapter. (Pub. L. 85–726, title XI, §1117, as added Pub. L. 93–623, § 5(a), Jan. 3, 1975, 88 Stat. 2104.)

SUBCHAPTER XII.—SECURITY PROVISIONS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1471, 1472, 1655 of this title.

SUBCHAPTER XIII.—WAR RISK INSURANCE

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1655 of this title.

§ 1531. Definitions.

EXPANSION OF WAR RISK INSURANCE; INVESTIGATION AND STUDY BY PRESIDENT; REPORT TO CONGRESS

Pub. L. 94–90, § 3, Aug. 9, 1975, 89 Stat. 439, provided that:

"(a) The President shall conduct a full and complete investigation and study of the possible expansion of the war risk insurance authorized by title XIII of the Federal Aviation Act of 1958 (49 U.S.C. 1531 et seq.) and by other provisions of law, to provide coverage for losses and damage resulting from riots, civil disorder, hijacking, or other similar acts.

"(b) In carrying out this section, the President shall consult with the Secretaries of Transportation, Defense, and State, and the heads of such other departments, agencies, and instrumentalities of the Federal Government as he determines necessary.

"(c) The President shall report to Congress not later than the ninetieth day after the date of enactment of this section [Aug. 9, 1975] the results of the investigation and study authorized by this section together with his recommendations for legislation (if any) which he determines necessary."

§ 1536. Insurance fund.

* * * * *

(f) Investment of revolving fund.

Upon the request of the Secretary, the Secretary of the Treasury may invest all or any part of the revolving fund in interest-bearing securities of the United States. The interest on, and the proceeds from the sale or redemption of, any securities held in the revolving fund shall be credited to and form a part of the revolving fund. (As amended Pub. L. 94–90, § 1(a), Aug. 9, 1975, 89 Stat. 439.)

AMENDMENTS

1975—Subsec. (f). Pub. L. 94–90 added subsec. (f).

§ 1537. Administrative provisions.

* * * * *

(f) Budget program; maintenance of accounts; audit; credit for certain expenditures.

The Secretary, in the performance of, and with respect to, the functions, powers, and duties vested in him by this subchapter, shall prepare annually and submit a budget program as provided for wholly owned Government corporations by the Government Corporation Control Act, as amended. The Secretary shall maintain a set of accounts which shall be audited by the Comptroller General in accordance with the provisions of the Accounting and Auditing Act of 1950: *Provided*, That, because of the business activities authorized by this subchapter, the Secretary may exercise the powers conferred in said subchapter, perform the duties and functions, and make expenditures required in accordance with commercial practice in the aviation insurance business, and the General Accounting Office shall allow credit for such expeditures when shown to be necessary because of the nature of such authorized activities. (As amended Pub. L. 93–604, title VII, § 702, Jan. 2, 1975, 88 Stat. 1964.)

REFERENCES IN TEXT

The Government Corporation Control Act, as amended, referred to in subsec. (f), is classified to section 841 et seq. of Title 31, Money and Finance.

The Accounting and Auditing Act of 1950, referred to in subsec. (f), is classified to section 65 et seq. of Title 31, Money and Finance.

AMENDMENTS

1975—Subsec. (f). Pub. L. 93–604 substituted provisions that the Secretary shall maintain a set of accounts which shall be audited by the Comptroller General in accordance with the provisions of the Accounting and Auditing Act of 1950, for provisions that the Secretary shall maintain an integral set of accounts which shall be audited annually by the General Accounting Office in accordance with principles and procedures applicable to commercial transactions as provided by the Government Corporation Control Act.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1531 of this title.

§ 1542. Expiration of authority to provide insurance.

The authority of the Secretary to provide insurance and reinsurance under this subchapter shall expire at the termination of May 7, 1976. (As amended Pub. L. 94–90, § 2, Aug. 9, 1975, 89 Stat. 439.)

AMENDMENTS

1975—Pub. L. 94–90 substituted "May 7, 1976" for "September 7, 1975".

Chapter 21.—URBAN MASS TRANSPORTATION

Sec.
1601b. Same; additional findings [New].
1602a. Federal financial assistance agreements; violations a bar to receipt of any other Federal financial assistance [New].
(a) Assistant for bus purchases subject to agreement against charter bus operations outside of regularly scheduled mass transportation service area; exceptions.
(b) Assistance for bus purchases subject to agreement against competitive school bus operations with private school bus operators; nonapplication of restriction under certain circumstances.
1604a. Investigation of safety hazards in urban mass transportation systems; submission of plan for correction of unsafe facilities, etc. [New].
1604b. Fares for elderly and handicapped persons [New].

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 23 sections 103, 142.

CHAPTER REFERRED TO IN D.C. CODE

This chapter is referred to in sections 1–1463, 1–1464 of the District of Columbia Code.

§ 1601b. Same; additional findings.

The Congress finds that—

(1) over 70 per centum of the Nation's population lives in urban areas;

(2) transportation is the lifeblood of an urbanized society and the health and welfare of that society depends upon the provision of efficient economical and convenient transportation within and between its urban area;

(3) for many years the mass transportation industry satisfied the transportation needs of the urban areas of the country capably and profitably;

(4) in recent years the maintenance of even minimal mass transportation service in urban areas has become so financially burdensome as to threaten the continuation of this essential public service;

(5) the termination of such service or the continued increase in its cost to the user is undesirable, and may have a particularly serious adverse effect upon the welfare of a substantial number of lower income persons;

(6) some urban areas are now engaged in developing preliminary plans for, or are actually carrying out, comprehensive projects to revitalize their mass transportation operations; and

(7) immediate substantial Federal assistance is needed to enable many mass transportation systems to continue to provide vital service.

(Pub. L. 93–503, § 2, Nov. 26, 1974, 88 Stat. 1566.)

CODIFICATION

Section was enacted as part of the National Mass Transportation Assistance Act of 1974 and not as part of the Urban Mass Transportation Assistance Act of 1964, which comprises this chapter.

SHORT TITLE

Section 1 of Pub. L. 93–503 provided: "That this Act [which enacted this section and sections 1604a and 1604b of this title, amended section 3303 of Title 42 and sections 1602, 1603, 1604, and 1611 of this title, and enacted provisions set out as notes under section 1605 of this title] may be cited as the 'National Mass Transportation Assistance Act of 1974'."

§ 1602. Federal financial assistance.

(a) Grants or loans to States and local public agencies; uses of funds; eligible facilities and equipment; eligibility of applicant; real property acquisition; prohibitions on uses of grant or loan funds; development of plans and programs of transportation systems for urbanized areas; scope and implementation of projects; cutoff date for approval of projects.

(1) The Secretary is authorized, in accordance with the provisions of this chapter and on such terms and conditions as he may prescribe, to make grants or loans (directly, through the purchase of securities or equipment trust certificates, or otherwise) to assist States and local public bodies and agencies thereof in financing (1) the acquisition, construction, reconstruction, and improvement of facilities and equipment for use, by operation or lease or otherwise, in mass transportation service in urban areas and in coordinating such service with highway and other transportation in such areas, and (2) the establishment and organization of public or quasi-public transit corridor development corporations or entities. Eligible facilities and equipment may include personal property including buses and other rolling stock and real property including land (but not public highways), within the entire zone affected by the construction and operation of transit improvements, including station sites, needed for an efficient and coordinated mass transportation system which is compatible with socially, economically, and environmentally sound patterns of land use. No grant or loan shall be provided under this section unless the Secretary determines that the applicant has or will have—

(A) the legal, financial, and technical capacity to carry out the proposed project; and

(B) satisfactory continuing control, through operation or lease or otherwise, over the use of the facilities and equipment.

The Secretary may make loans for real property acquisition pursuant to subsection (b) of this section upon a determination, which shall be in lieu of the preceding determinations, that the real property is reasonably expected to be required in connection with a mass transportation system and that it will be used for that purpose within a reasonable period. No grant or loan funds shall be used for payment of ordinary governmental or nonprofit operating expenses, nor shall any grant or loan funds be used to support procurements utilizing exclusionary or discriminatory specifications.

(2) It is declared to be in the national interest to encourage and promote the development of transportation systems, embracing various modes of transport in a manner that will serve the States and local communities efficiently and effectively. To accomplish this objective the Secretary shall cooperate with the States in the development of long-range plans and programs which are properly coordinated with plans for improvements in other affected forms of transportation and which are formulated with due consideration to their probable effect on the future development of urban areas of more than fifty thousand population. The development of projects in urbanized areas under this section shall be based upon a continuing, cooperative, and comprehensive planning process covering all modes of surface transportation and carried on by the States and the governing bodies of local communities in accordance with this paragraph. The Secretary shall not approve any project in an urbanized area after July 1, 1976, under this section unless he finds that such project is based on a continuing comprehensive transportation planning process carried on in conformance with the objectives stated in this paragraph.

* * * * *

(f) Purchase or operation of buses.

No Federal financial assistance under this chapter may be provided for the purchase or operation of buses unless the applicant or any public body receiving such assistance for the purchase or operation of buses, or any publicly owned operator receiving such assistance, shall as a condition of such asistance enter into an agreement with the Secretary that such public body, or any operator of mass transportation for such public body, will not engage in charter bus operations outside the urban area within which it provides regularly scheduled mass transportation service, except as provided in the agreement authorized by this subsection. Such agreement shall provide for fair and equitable arrangements, appropriate in the judgment of the Secretary, to assure that the financial assistance granted under this chapter will not enable public bodies and publicly and privately owned operators for public bodies to foreclose private operators from the intercity charter bus industry where such private operators are willing and able to provide such service. In addition to any other remedies specified in the agreement, the Secretary shall have the authority to bar a grantee or operator from the receipt of further financial assistance for mass transportation facilities and equipment where he determines that there has been a continuing pattern of violations of the terms of agreement. Upon receiving a complaint regarding an alleged violation, the Secretary shall investigate and shall determine whether a violation has occurred. Upon determination that a violation has occurred, he shall take appropriate action to correct the violation under the terms and conditions of the agreement.

(g) Schoolbus operations.

No Federal financial assistance shall be provided under this chapter for the construction or operation of facilities and equipment for use in providing public mass transportation service to any applicant for such assistance unless such applicant and the Secre-

tary shall have first entered into an agreement that such applicant will not engage in schoolbus operations, exclusively for the transportation of students and school personnel, in competition with private schoolbus operators. This subsection shall not apply to an applicant with respect to operation of a schoolbus program if the applicant operates a school system in the area to be served and operates a separate and exclusive schoolbus program for this school system. This subsection shall not apply unless private schoolbus operators are able to provide adequate transportation, at reasonable rates, and in conformance with applicable safety standards; and this subsection shall not apply with respect to any State or local public body or agency thereof if it (or a direct predecessor in interest from which it acquired the function of so transporting schoolchildren and personnel along with facilities to be used therefor) was so engaged in schoolbus operations any time during the twelve-month period immediately prior to November 26, 1974. A violation of an agreement under this subsection shall bar such applicant from receiving any other Federal financial assistance under this chapter.

(h) Alternate use of financial assistance for payment of operating expenses; maximum amount; terms and conditions.

Notwithstanding any other provision of this chapter, or of any contract or agreement entered into under this chapter, up to one-half of any financial assistance provided under this chapter (other than under section 1604 of this title) to any State or local public body or agency thereof for the fiscal year 1975 or any subsequent fiscal year may, at the option of such State or local public body or agency, be used exclusively for the payment of operating expenses (incurred in connection with the provision of mass transportation service in an urban area or areas) to improve or to continue such service, if the Secretary finds (in any case where the financial assistance to be so used was originally provided for another project) that effective arrangements have been made to substitute and, by the end of the fiscal year following the fiscal year for which such sums are used, make available (for such other project) an equal amount of State or local funds (in addition to any State or local funds otherwise required by this chapter to be contributed toward the cost of such project). Any amounts used for the payment of operating expenses pursuant to this subsection shall be subject to such terms and conditions (including the requirement for local matching contributions), required for the payment of operating expenses under other provisions of this chapter, as the Secretary may deem necessary and appropriate. (As amended Pub. L. 93–383, title VIII, § 813(a), Aug. 22, 1974, 88 Stat. 737; Pub. L. 93–503, title I, §§ 102, 104, 106, 109, 110, Nov. 26, 1974, 88 Stat. 1566, 1571–1573.)

AMENDMENTS

1974—Subsec. (a)(1). Pub. L. 93–503, §§ 102(1)–(3), 104, 106, redesignated existing provisions as subsec. (a)(1), and, as so redesignated, designated existing provisions as cl. (1) and added cl. (2), redesignated former cls. (1) and (2) as (A) and (B), respectively, added provisions relating to requirements for eligible facilities and equipment with respect to their placement within the zone affected by construction and operation of transit improvements and compatibility with land use patterns and provisions prohibiting use of grant or loan fund to support procurements utilizing exclusionary or discriminatory specifications, and struck out provisions relating to submission of applications for assistance to Governors of affected States and comments upon applications by such Governors to the Secretary.

Subsec. (a)(2). Pub. L. 93–503, § 102(4), added subsec. (a)(2).

Subsec. (f). Pub. L. 93–503, § 109(b), added "or operation" following "purchase".

Pub. L. 93–383 added subsec. (f).

Subsec. (g). Pub. L. 93–503, § 109(a), added subsec. (g).

Subsec. (h). Pub. L. 93–503, § 110, added subsec. (h).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1602a, 1603, 1604, 1606, 1608, 1609, 1610, 1612 of this title; title 23 sections 103, 142; title 42 sections 3303, 4519.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 1–1463, 1–1464, 1–1465 of the District of Columbia Code.

§ 1602a. Federal financial assistance agreements.

(a) Assistance for bus purchases subject to agreement against charter bus operations outside of regularly scheduled mass transportation service area; exceptions.

No Federal financial assistance shall be provided under (1) subsection (a) or (c) of section 142, Title 23, or (2) paragraph (4) of subsection (e) of section 103, Title 23, for the purchase of buses to any applicant for such assistance unless such applicant and the Secretary of Transportation shall have first entered into an agreement that such applicant will not engage in charter bus operations outside of the urban area (or areas) within which it provides regularly scheduled mass transportation service, except as provided in an agreement authorized and required by section 1602(f) of this title, which section shall apply to Federal financial assistance for the purchase of bases under the provisions of Title 23 referred to in clauses (1) and (2) of this sentence.

(b) Assistance for bus purchases subject to agreement against competitive school bus operations with private school bus operators; nonapplication of restriction under certain circumstances.

No Federal financial assistance shall be provided under (1) subsection (a) or (c) of section 142, Title 23, (2) paragraph (4) of subsection (e) of section 103, Title 23, or (3) this chapter, for the purchase of buses to any applicant for such assistance unless such applicant and the Secretary of Transportation shall have first entered into an agreement that such applicant will not engage in school bus operations, exclusively for the transportation of students and school personnel, in competition with private school bus operators. This subsection shall not apply to an applicant with respect to operation of a school bus program if the applicant operates a school system in the area to be served and operates a separate and exclusive school bus program for this school system. This subsection shall not apply unless private school bus operators are able to provide adequate transportation, at reasonable rates, and in conformance with applicable safety standards, and this subsection shall not apply with respect to any State or local public body or agency thereof if it (or a direct predecessor in interest from which it acquired the function of so transporting school children and personnel along with facilities to be used therefor) was so

engaged in school bus operations any time during the twelve-month period immediately prior to August 13, 1973. A violation of an agreement under this subsection shall bar such applicant from receiving any other Federal financial assistance under those provisions of law referred to in clauses (1), (2), and (3) of this subsection. (Pub. L. 93–87, title I, § 164, Aug. 13, 1973, 87 Stat. 281, amended Pub. L. 93–383, title VIII, § 813(b), Aug. 22, 1974, 88 Stat. 737.)

CODIFICATION

Section was enacted as a part of the Federal-Aid Highway Act of 1973, and not as a part of the Urban Mass Transportation Act of 1964, which is classified to this chapter.

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–383 struck out cl. (3) which related to Federal financial assistance provided under this chapter, and substituted provisions requiring agreements to provide that applicants will not engage in charter bus operations outside of urban areas within which regularly scheduled mass transportation is provided, except as specifically authorized, for provisions requiring agreements to provide that applicants will not engage in charter bus operations in competition with private bus operators outside of the area the applicant provides regularly scheduled mass transportation service, and provisions requiring violations of the agreement to bar applicants from receiving any other Federal financial assistance.

AMENDMENT OF AGREEMENTS TO CONFORM TO AMENDMENTS BY PUB. L. 93–383; EFFECTIVE DATE OF AMENDED AGREEMENTS

Section 813(c) of Pub. L. 93–383 provided that: "The Secretary shall amend any agreements entered into pursuant to section 164(a) of the Federal-Aid Highway Act of 1973 [subsec. (a) of this section], to conform to the requirements of the amendments made by this section [to subsec. (a) of this section and section 1602(f) of this title]. The effective date of such conformed agreements shall be the effective date of the original agreements entered into pursuant to such section 164(a)."

§ 1603. Long-range program.

(a) Terms and conditions; planning requirements; "net project cost" defined; Federal grant for two-thirds and non-Federal funds for one-third of net project cost; refunds.

No Federal financial assistance shall be provided pursuant to subsection (a) of section 1602 of this title unless the Secretary determines that the facilities and equipment for which the assistance is sought are needed for carrying out a program, meeting criteria established by him, for a unified or officially coordinated urban transportation system as a part of the comprehensively planned development of the urban area, and are necessary for the sound economic, and desirable development of such area. Such program shall encourage to the maximum extent feasible the participation of private enterprise. Where facilities and equipment are to be acquired which are already being used in mass transportation service in the urban area, the program must provide that they shall be so improved (through modernization, extension, addition, or otherwise) that they will better serve the transportation needs of the area. The Secretary, on the basis of engineering studies, studies of economic feasibility, and data showing the nature and extent of expected utilization of the facilities and equipment, shall estimate what portion of the cost of a project to be assisted under section 1602 of this title cannot be reasonably financed from revenues—which portion shall hereinafter be called "net project cost". The Federal grant for any such project to be assisted under section 1602 of this title shall be in an amount equal to 80 per centum of the net project cost. The remainder of the net project cost shall be provided, in cash from sources other than Federal funds. Such remainder may be provided in whole or in part from other than public sources and any public or private transit system funds so provided shall be solely from undistributed cash surpluses, replacement or depreciation funds or reserves available in cash, or new capital. No refund or reduction of the remainder of the net project cost shall be made at any time unless there is at the same time a refund of a proportional amount of the Federal grant.

* * * * *

(c) Additional appropriations.

To finance grants and loans under sections 1602, 1606(b), and 1607a of this title, the Secretary is authorized to incur obligations on behalf of the United States in the form of grant agreements or otherwise in amounts aggregating not to exceed $10,925,000,000, less amounts appropriated pursuant to section 1608(d) of this title and the amount appropriated to the Urban Mass Transportation Fund by Public Law 91–168. This amount (which shall be in addition to any amounts available to finance such activities under subsection (b) of this section) shall become available for obligation on October 15, 1970, and shall remain available until obligated. There are authorized to be appropriated for liquidation of the obligations incurred under this subsection not to exceed $80,000,000 prior to July 1, 1971, which amount may be increased to not to exceed an aggregate of $6,100,000,000 prior to July 1, 1972, not to exceed an aggregate of $710,000,000 prior to July 1, 1973, not to exceed an aggregate of $1,260,000,000 prior to July 1, 1974, not to exceed an aggregate of $1,860,000,000 prior to July 1, 1975, and not to exceed an aggregate of $3,100,000,000 thereafter. The total amounts appropriated under this subsection and section 1608(d) of this title shall not exceed the limitations in the foregoing schedule. Sums so appropriated shall remain available until expended. Of the total amount available to finance activities under this chapter (other than under section 1604 of this title) on and after November 26, 1974, not to exceed $500,000,000 shall be available exclusively for assistance in areas other than urbanized areas (as defined in section 1604(a)(3) of this title).

(d) Annual reports to Congress.

The Secretary shall report annually to the Congress with respect to outstanding grants or other contractual agreements executed pursuant to subsection (c) of this section.

* * * * *

(As amended Pub. L. 93–87, title III, § 301(a), (c), Aug. 13, 1973, 87 Stat. 295; Pub. L. 93–503, title I, §§ 101, 103(b), Nov. 26, 1974, 88 Stat. 1566, 1571; Pub. L. 93–608, § 1(21), Jan. 2, 1975, 88 Stat. 1970.)

AMENDMENTS

1975—Subsec. (d). Pub. L. 93–608 struck out provisions relating to biennial authorization requests by the Sec-

retary to the Congress and provisions relating to recommendations by the Secretary of adjustments in the schedule for liquidation of obligations.

1974—Subsec. (a). Pub. L. 93–503, § 103(b), substituted "No" for "Except as specified in section 1604 of this title, no".

Subsec. (c). Pub. L. 93–503, § 101, substituted "$10,925,000,000" for "$6,100,000,000" in the first sentence and added provision relating to availability of funds exclusively for assistance in areas other than urbanized areas, as defined in section 1604(a)(3) of this title.

1973—Subsec. (a). Pub. L. 93–87, § 301(a), substituted fifth sentence reading "The Federal grant for any such project to be assisted under section 1602 of this title shall be in an amount equal to 80 per centum of the net project cost." for "The Federal grant for such a project should not exceed two-thirds of the net project cost."

Subsec. (c). Pub. L. 93–87, § 301(c), substituted "$6,100,000,000" for "$3,100,000,000" in first and third sentences.

EFFECTIVE DATE OF 1973 AMENDMENT

Section 301(b) of Pub. L. 93–87 provided that: "The amendment made by subsection (a) [to subsec. (a) of this section] shall apply only with respect to projects which were not subject to administrative reservation on or before July 1, 1973."

POLITICAL ACTIVITY OF STATE AND LOCAL EMPLOYEES; NONAPPLICATION OF PROVISIONS TO NONSUPERVISORY EMPLOYEES OF URBAN MASS TRANSPORTATION SYSTEM.

Section 301(e) of Pub. L. 93–87 provided that: "The provision of assistance under the amendments made by this section [to subsecs. (a) and (c) of this section and sections 1607a, 1608(f), and 1612(b) of this title] shall not be construed as bringing within the application of chapter 15 of title 5, United States Code, any nonsupervisory employee of an urban mass transportation system (or of any other agency or entity performing related functions) to whom such chapter is otherwise inapplicable."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1604, 1605, 1607b, 1607c, 1612 of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 1–1461, 1–1465 of the District of Columbia Code.

§ 1604. Urban mass transit grant program.

(a) Definitions.

As used in this section—

(1) the term "construction" means the supervising, inspecting, actual building, and all expenses incidental to the acquisition, construction, or reconstruction of facilities and equipment for use in mass transportation, including designing, engineering, locating, surveying, mapping, acquisition of rights-of-way, relocation assistance, and acquisition and replacement of housing sites;

(2) the term "Governor" means the Governor, or his designate, of any one of the fifty States or of Puerto Rico, and the Mayor of the District of Columbia; and

(3) the term "urbanized area" means an area so designated by the Bureau of the Census, within boundaries which shall be fixed by responsible State and local officials in cooperation with each other, subject to approval by the Secretary, and which shall at a minimum, in the case of any such area, encompass the entire urbanized area within the State as designated by the Bureau of the Census.

(b) Apportionment of funds; formula; density of population factor; designated recipient of apportioned funds to receive and dispense funds; availablability of funds not expended by designated recipients.

(1) The Secretary shall apportion for expenditure in fiscal years 1975 through 1980 the sums authorized by subsection (c) of this section. Such sums shall be made available for expenditure in urbanized areas or parts thereof on the basis of a formula under which urbanized areas or part thereof will be entitled to receive an amount equal to the sum of—

(A) one-half of the total amount so apportioned multiplied by the ratio which the population of such urbanized area or part thereof, as designated by the Bureau of the Census, bears to the total population of all the urbanized areas in all the States as shown by the latest available Federal census; and

(B) one-half of the total amount so apportioned multiplied by a ratio for that urbanized area determined on the basis of population weighted by a factor of density, as determined by the Secretary.

As used in the preceding sentence, the term "density" means the number of inhabitants per square mile.

(2) The Governor, responsible local officials and publicly-owned operators of mass transportation services, in accordance with the procedures required under subsection (g)(1) of this section with the concurrence of the Secretary, shall designate a recipient to receive and dispense the funds apportioned under paragraph (1) that are attributable to urbanized areas of two hundred thousand or more population. In any case in which a statewide or regional agency or instrumentality is responsible under State laws for the financing, construction and operation directly, by lease, contract, or otherwise, of public transportation services, such agency or instrumentality shall be the recipient to receive and dispense such funds. The term "designated recipient" as used in this chapter shall refer to the recipient selected according to the procedures required by this paragraph.

(3) Sums apportioned under paragraph (1) not made available for expenditure by designated recipients in accordance with the terms of paragraph (2) shall be made available to the Governor for expenditure in urbanized areas or parts thereof in accordance with the procedures required under subsection (g)(1) of this section.

(c) Grant, contract, etc., obligations for financing grants; maximum amount; authorization of appropriations for liquidation of obligations; availability of appropriations; availability of apportioned sums for obligation; return to Treasury of unobligated apportioned amounts.

(1) To finance grants under this section, the Secretary may incur obligations on behalf of the United States in the form of grants, contracts, agreements, or otherwise in an aggregate amount not to exceed $3,975,000,000. There are authorized to be appropriated for liquidation of the obligations incurred under this paragraph not to exceed $300,000,000 prior to the close of fiscal year 1975; not to exceed $500,000,000 prior to the close of fiscal year

1976; not to exceed $650,000,000 prior to the close of fiscal year 1977; not to exceed $775,000,000 prior to the close of fiscal year 1978; not to exceed $850,000,000 prior to the close of fiscal year 1979; and not to exceed $900,000,000 prior to the close of fiscal year 1980. Sums so appropriated shall remain available until expended.

(2) Sums apportioned under this section shall be available for obligation by the Governor or designated recipient for a period of two years following the close of the fiscal year for which such sums are apportioned, and any amounts so apportioned remaining unobligated at the end of such period shall lapse and shall be returned to the Treasury for deposit as miscellaneous receipts.

(d) Approval of projects for acquisition, construction, and improvement of facilities and equipment, and payment of operating expenses; terms and conditions; regulations.

(1) The Secretary may approve as a project under this section, on such terms and conditions as he may prescribe, (A) the acquisition, construction, and improvement of facilities and equipment for use, by operation or lease or otherwise, in mass transportation service, and (B) the payment of operating expenses to improve or to continue such service by operation, lease, contract, or otherwise.

(2) The Secretary shall issue such regulations as he deems necessary to administer this subsection and subsection (e) of this section including regulations regarding maintenance of effort by States, local governments, and local public bodies, the appropriate definition of operating expenses, and requirements for improving the efficiency of transit services.

(e) Limitation on amount of grants for construction and operating expense projects; source of remainder of funds for projects.

The Federal grant for any construction project under this section shall not exceed 80 per centum of the cost of the construction project, as determined under section 1603(a) of this title. The Federal grant for any project for the payment of subsidies for operating expenses shall not exceed 50 per centum of the cost of such operating expense project. The remainder shall be provided in cash, from sources other than Federal funds or revenues from the operation of public mass transportation systems. Any public or private transit system funds so provided shall be solely from undistributed cash surpluses, replacement or depreciation funds or reserves available in cash, or new capital.

(f) Federal funds available for expenditure for projects supplementary to average amount of State and local government funds, etc., expended for operations; State and local tax revenues expended for operations credited to non-Federal share of project costs.

Federal funds available for expenditure for mass transportation projects under this section shall be supplementary to and not in substitution for the average amount of State and local government funds and other transit revenues such as advertising, concessions, and property leases, expended on the operation of mass transportation service in the area involved for the two fiscal years preceding the fiscal year for which the funds are made available; but nothing in this sentence shall be construed as preventing State or local tax revenues which are used for the operation of mass transportation service in the area involved from being credited (to the extent necessary) toward the non-Federal share of the cost of the project for purposes of the preceding sentence.

(g) Development of plans and programs of transportation systems for urbanized areas; scope and implementation of projects; cutoff date for approval of projects; submission by Governor or designated recipient and approval by Secretary of program of projects for utilization of funds; consideration and comments on programs.

(1) It is declared to be in the national interest to encourage and promote the development of transportation systems, embracing various modes of transport in a manner that will serve the States and local communities efficiently and effectively. To accomplish this objective the Secretary shall cooperate with the States in the development of long-range plans and programs which are properly coordinated with plans for improvement in other affected forms of transportation and which are formulated with due consideration to their probable effect on the future development of urban areas of more than fifty thousand population. The development of projects in urbanized areas under this section shall be based upon a continuing, cooperative, and comprehensive planning process covering all modes of surface transportation and carried on by the States and the governing bodies of local communities in accordance with this paragraph. The Secretary shall not approve any project in an urbanized area after July 1, 1976, under this section unless he finds that such project is based on a continuing comprehensive transportation planning process carried on in conformance with the objectives stated in this paragraph.

(2) The Governor or designated recipient shall submit to the Secretary for his approval a program of projects for utilization of the funds authorized, which shall be based on the continuing comprehensive planning process of paragraph (1). The Secretary shall act upon programs submitted to him as soon as practicable, and he may approve a program in whole or in part.

(3) An applicant for assistance under this section (other than a Governor) shall submit the program or programs to the Governor of the State affected, concurrently with submission to the Secretary. If within thirty days thereafter the Governor submits comments to the Secretary, the Secretary shall consider such comments before taking final action on the program or programs.

(h) Submission by Governor or designated recipient and approval by Secretary of surveys, plans, etc., of proposed projects; grant or contract agreement as contractual obligation of Federal government; criteria for approval of projects.

(1) The Governor or the designated recipient of the urbanized area shall submit to the Secretary for his approach[1] such surveys, plans, specifications, and estimates for each proposed project as the Sec-

[1] So in original. Probably should be "approval".

retary may require. The Secretary shall act upon such surveys, plans, specifications, and his entering into a grant or contract agreement with respect to any such project shall be a contractual obligation of the Federal Government for the payment of its proportional contribution thereto.

(2) In approving any project under this section, the Secretary shall assure that possible adverse economic, social, and environmental effects relating to the proposed project have been fully considered in developing the project, and that the final decisions on the project are made in the best overall public interest, taking into consideration the need for fast, safe, and efficient transportation, public services, and conservation of environment and natural resources, and the costs of eliminating or minimizing any such adverse effects, including—

(A) air, noise, and water pollution;

(B) destruction or disruption of manmade and natural resources, esthetic values, community cohesion, and the availability of public facilities and services;

(C) adverse employment effects, and tax and property value losses;

(D) injurious displacement of people, businesses, and farms; and

(E) disruption of desirable community and regional growth.

(i) Certification by Governor or designated recipient to Secretary of compliance with procedures for determination of environmental, etc., impact of proposed projects; report.

Upon submission for approval of a proposed project under this section, the Governor or the designated recipient of the urbanized area shall certify to the Secretary that he or it has conducted public hearings (or has afforded the opportunity for such hearings) and that these hearings included (or were scheduled to include) consideration of the economic and social effects of such project, its impact on the environment, including requirements under the Clean Air Act, the Federal Water Pollution Control Act, and other applicable Federal environmental statutes, and its consistency with the goals and objectives of such urban planning as has been promulgated by the community. Such certification shall be accompanied by (1) a report which indicates the consideration given to the economic, social, environmental, and other effects of the proposed project, including, for construction projects, the effects of its location or design, and the consideration given to the various alternatives which were raised during the hearing or which were otherwise considered, and (2) upon the Secretary's request, a copy of the transcript of the hearings.

(j) Acceptance of certification as discharge of Secretary's responsibilities; final inspection or review and report of projects; guidelines and regulations; rescission of acceptance of certification; Secretary's responsibilities under other Federal laws not affected.

(1) The Secretary may discharge any of his responsibilities under this action[1] with respect to a project under this section upon the request of any Governor or designated recipient of the urbanized area by accepting a certification by the Governor or his designee, or by the designated recipient of the urbanized area, if he finds that such project will be carried out in accordance with State laws, regulations, directives, and standards establishing requirements at least equivalent to those contained in, or issued pursuant to, this section.

(2) The Secretary shall make a final inspection or review of each such project upon its completion and shall require an adequate report of its estimated and actual cost, as well as such other information as he determines to be necessary.

(3) The Secretary shall promulgate such guidelines and regulations as may be necessary to carry out this subsection.

(4) Acceptance by the Secretary of a certification under this section may be rescinded by the Secretary at any time if, in his opinion, it is necessary to do so.

(5) Nothing in this section shall affect or discharge any responsibility or obligation of the Secretary under any other Federal law, including the National Environmental Policy Act of 1969, section 4(f) of the Department of Transportation Act, title VI of the Civil Rights Act of 1964, title VIII of the Act of April 11, 1968, and the Uniform Relocation Assistance and Land Acquisition Policies Act of 1970.

(k) Formal project agreements between Secretary and Governor or designated recipient; arrangements for local funding or cooperation in construction of project; advance grant or contract payments.

(1) As soon as practicable after the plans, specifications, and estimates for a specific project under this section have been approved, the Secretary shall enter into a formal project agreement with the Governor, his designee or the designated recipient of the urbanized area. Such project agreement shall make provision for non-Federal funds required for the State's or designated recipient's pro rata share of the cost of the project.

(2) The Secretary may rely upon representations made by the applicant with respect to the arrangements or agreements made by the Governor or the designated recipient where a part of the project involved is to be constructed at the expense of, or in cooperation with, local subdivisions of the State.

(3) The Secretary is authorized, notwithstanding the provisions of section 529 of Title 31, to make advance or progress payments on account of any grant or contract made pursuant to this section, on such terms and conditions as he may prescribe.

(*l*) Criteria for approval and undertaking of projects.

The Secretary shall not approve any project under this section unless he finds that such project is needed to carry out a program, meeting criteria established by him, for a unified or officially coordinated urban transportation system as a part of the comprehensively planned development of the urban area, and is necessary for the sound, economic, and desirable development of such area, and that the applicant or responsible agency has the legal, financial, and technical capacity to carry out the proposed

[1] So in original. Probably should be "section".

project. A project under this section may not be undertaken unless the responsible public officials of the urbanized area in which the project is located have been consulted and except for projects solely to pay subsidies for operating expenses, their views considered with respect to the corridor, location, and design of the project.

(m) Maximum amount of fares for elderly and handicapped persons utilizing project facilities and equipment receiving assistance.

The Secretary shall not approve any project under this section unless the applicant agrees and gives satisfactory assurances, in such manner and form as may be required by the Secretary and in accordance with such terms and conditions as the Secretary may prescribe, that the rates charged elderly and handicapped persons during nonpeak hours for transportation utilizing or involving the facilities and equipment of the project financed with assistance under this section will not exceed one-half of the rates generally applicable to other persons at peak hours, whether the operation of such facilities and equipment is by the applicant or is by another entity under lease or otherwise.

(n) Applicability of other provisions.

(1) The provisions of section 1609(c) of this title and section 1602(e)(4) of this title shall apply in carrying out mass transportation projects under this section.

(2) The provision of assistance under this section shall not be construed as bringing within the application of chapter 15 of Title 5, any nonsupervisory employee of an urban mass transportation system (or of any other agency or entity performing related functions) to whom such chapter is otherwise inapplicable. (As amended Pub. L. 93–503, title I, § 103(a), Nov. 26, 1974, 88 Stat. 1567.)

REFERENCES IN TEXT

Clean Air Act, referred to in subsec. (i), is classified to section 1857 et seq. of Title 42, The Public Health and Welfare.

Federal Water Pollution Control Act, referred to in subsec. (i), is clasified to section 1251 et seq. of Title 33, Navigation and Navigable Waters.

National Environmental Policy Act of 1969, referred to in subsec. (j), is classified to section 4321 et seq. of Title 42.

Section 4(f) of the Department of Transportation Act, referred to in subsec. (j), is classified to section 1653(f) of this title.

Title VI of the Civil Rights Act of 1964, referred to in subsec. (j), is classified to section 2000d et seq. of Title 42.

Title VIII of the Act of April 11, 1968, referred to in subsec. (j), is title VIII of Pub. L. 90–284, §§ 801 to 819, Apr. 11, 1968, 82 Stat. 81, which is classified to section 3601 et seq. of Title 42.

Uniform Relocation Assistance and Land Acquisition Policies Act of 1970, referred to in subsec. (j), is classified generally to section 4601 et seq. of Title 42. See Short Title note set out under section 4601 of Title 42.

CODIFICATION

Subsection (g)(1) of this section, referred to in subsec. (b)(2), was, in the original, "section (g)" and has been editorially translated in order to conform to the probable intent of Congress.

AMENDMENTS

1974—Pub. L. 93–503 restructured provisions by replacing single unlettered paragraph with subsecs. (a) through (n), and, as so restructured, substituted provisions relating to grant program for urban mass transit for provisions relating to emegency Federal financial assistance program, terms and conditions of such program, and grants for net project costs.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1602, 1603, 1611 of this title.

§ 1604a. Investigation of safety hazards in urban mass transportation systems; submission of plan for correction of unsafe facilities; etc.

The Secretary of Transportation shall investigate unsafe conditions in any facility, equipment, or manner of operation financed under this Act which creates a serious hazard of death or injury for the purpose of determining its nature and extent and the means which might best be employed to eliminate or correct it. If the Secretary determines that such facility, equipment, or manner of operation is unsafe, he shall require the State or local public body or agency to submit to the Secretary a plan for correcting the unsafe facility, equipment, or manner of operation, and the Secretary may withhold further financial assistance to the applicant until such plan is approved or implemented. (Pub. L. 93–503, title I, § 107, Nov. 26, 1974, 88 Stat. 1572.)

REFERENCES IN TEXT

This Act, referred to in text, is the National Mass Transportation Assistance Act of 1974. For distribution of such Act in this Code, see Short Title note set out under section 1601b of this title.

CODIFICATION

Section was enacted as part of the National Mass Transportation Assistance Act of 1974 and not as part of the Urban Mass Transportation Assistance Act of 1964, which comprises this chapter.

§ 1604b. Fares for elderly and handicapped persons.

Nothing contained in this title shall require the charging of fares to elderly and handicapped persons. (Pub. L. 93–503, title I, § 108, Nov. 26, 1974, 88 Stat. 1572.)

REFERENCES IN TEXT

This title, referred to in text, is title I of Pub. L. 93–503, §§ 101 to 111, Nov. 26, 1974, 88 Stat, 1566 to 1574. For distribution of such title in this Code, see Tables volume.

CODIFICATION

Section was enacted as part of the National Mass Transportation Assistance Act of 1974 and not as part of the Urban Mass Transportation Assistance Act of 1964, which comprises this chapter.

§ 1605. Research, development, and demonstration projects.

FARE-FREE MASS TRANSPORTATION DEMONSTRATION PROJECTS; LIMITATION ON FEDERAL GRANTS; SELECTION OF CITIES OR METROPOLITAN AREAS; PURPOSES OF STUDY; REPORTS TO CONGRESS; ADVISORY PARTICIPATION; APPROPRIATIONS

Pub. L. 93–503, title II, §§ 201–207, Nov. 26, 1974, 88 Stat. 1574, 1575, provided that:

"Sec. 201. The Secretary of Transportation (hereinafter referred to as the 'Secretary') shall enter into such contracts or other arrangements as may be necessary for re-

search and the development, establishment, and operation of demonstration projects to determine the feasibility of fare-free urban mass transportation systems.

"Sec. 202. Federal grants or payments for the purpose of assisting such projects shall cover not to exceed 80 per centum of the cost of the project involved, including operating costs and the amortization of capital costs for any fiscal year for which such contract or other arrangement is in effect.

"Sec. 203. The Secretary shall select cities or metropolitan areas for such projects in accordance with the following:

"(1) to the extent practicable, such cities or metropolitan areas shall have a failing or nonexistent or marginally profitable transit system, a decaying central city, automobile-caused air pollution problems, and an immobile central city population;

"(2) several projects should be selected from cities or metropolitan areas of differing sizes and populations;

"(3) a high level of innovative service must be provided including the provision of crosstown and other transportation service to the extent necessary for central city residents and others to reach employment, shopping, and recreation; and

"(4) to the extent practicable, projects utilizing different modes of mass transportation shall be approved.

"Sec. 204. The Secretary shall study fare-free systems assisted pursuant to this title, and other financially assisted urban mass transportation systems providing reduced fares for the purpose of determining the following:

"(1) the effects of such systems on (i) vehicle traffic and attendant air pollution, congestion, and noise, (ii) the mobility of urban residents, and (iii) the economic viability of central city business;

"(2) the mode of mass transportation that can best meet the desired objectives;

"(3) the extent to which frivolous ridership increases as a result of reduced fare or fare-free systems;

"(4) the extent to which the need for urban highways might be reduced as a result of reduced fare or fare-free systems; and

"(5) the best means of financing reduced fare or fare-free transportation on a continuing basis.

"Sec. 205. The Secretary shall make annual reports to the Congress on the information gathered pursuant to section 204 of this title and shall make a final report of his findings, including any recommendations he might have to implement such findings, not later than June 30, 1975.

"Sec. 206. In carrying out the provisions of this title, the Secretary shall provide advisory participation by interested State and local government authorities, mass transportation systems management personnel, employee representatives, mass transportation riders, and any other persons that he may deem necessary or appropriate.

"Sec. 207. There are hereby authorized to be appropriated not to exceed $20,000,000 for each of the fiscal years ending on June 30, 1975, and June 30, 1976, respectively, to carry out the provisions of this title."

RAILROAD GRADE CROSSING ELIMINATION DEMONSTRATION PROJECT IN HAMMOND, INDIANA; AUTHORIZATION OF APPROPRIATIONS

Pub. L. 93–503, title III, §§ 301, 302, Nov. 26, 1974, 88 Stat. 1575, provided that:

"Sec. 301. The Secretary of Transportation shall enter into such arrangements as may be necessary to carry out a demonstration project in Hammond, Indiana, for the relocation of railroad lines for the purpose of eliminating highway railroad grade crossings. The Federal share payable on account of such project shall be that provided in section 120 of title 23, United States Code.

"Sec. 302. There are authorized to be appropriated to carry out this title not to exceed $14,000,000, except that two-thirds of all funds expended under authority of this section in any fiscal year shall be appropriated out of the Highway Trust Fund."

§ 1606. Relocation program.

* * * * * *

(b) Repealed. Pub. L. 91–646, title II, § 220(a)(4), Jan. 2, 1971, 84 Stat. 1903.

(As amended Pub. L. 91–646, title II, § 220(a)(4), Jan. 2, 1971, 84 Stat. 1903.)

AMENDMENTS

1971—Subsec. (b). Pub. L. 91–646 repealed provisions which authorized grants for relocation payments, defined "relocation payments", limited amount of payment, and provided for issuance of rules and regulations. Subject matter is now covered by chapter 61 (section 4601 et seq.) of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1971 AMENDMENT

Repeal of subsec. (b) of this section by Pub. L. 91–646 not applicable to any State so long as sections 4630 and 4655 of Title 42 are not applicable in such State; but such sections completely applicable to all States after July 1, 1972, but until such date applicable to a State to extent the State is able under its laws to comply with such sections, see section 221 of Pub. L. 91–646, set out as a note under section 4601 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1602, 1603 of this title.

§ 1607. Coordination of Federal assistance for highways and for mass transportation facilities.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1655 of this title.

§ 1607a. Grants for technical studies.

The Secretary is authorized to contract for and make grants to States and local public bodies and agencies thereof for the planning, engineering, designing, and evaluation of urban mass transportation projects, and for other technical studies, to be included, or proposed to be included, in a program (completed or under active preparation) for a unified or officially coordinated urban transportation system as a part of the comprehensively planned development of the urban area. Activities assisted under this section may include (1) studies relating to management, operations, capital requirements, and economic feasibility; (2) preparation of engineering and architectural surveys, plans, and specifications; (3) evaluation of previously funded projects; and (4) other similar or related activities preliminary and in preparation for the construction, acquisition, or improved operation of mass transportation systems, facilities, and equipment. A grant or contract under this section shall be made in accordance with criteria established by the Secretary. (As amended Pub. L. 93–87, title III, § 301(d), Aug. 13, 1973, 87 Stat. 295.)

AMENDMENTS

1973—Pub. L. 93–87 substituted "to contract for and make grants" for "to make grants" and "designing, and evaluation" for "and designing" in the first sentence; provided assistance for cl. (3) activities relating to evaluation of previously funded projects; redesignated former cl. (3) as (4); inserted "or contract" following "A grant"; and deleted "and shall not exceed two-thirds of the cost of carrying out the activities for which the grant is made" following "Secretary" in the last sentence.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1603 of this title.

§ 1608. General provisions.

* * * * *

(f) Sex discrimination prohibition; enforcement; remedies.

No person shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal assistance under this chapter or carried on under this chapter. This provision will be enforced through agency provisions and rules similar to those already established, with respect to racial and other discrimination, under Title VI of the Civil Rights Act of 1964. However, this remedy is not exclusive and will not prejudice or cut off any other legal remedies available to a discriminatee. (As amended Pub. L. 93–87, title III, § 301(f), Aug. 13, 1973, 87 Stat. 295.)

REFERENCES IN TEXT

Title VI of the Civil Rights Act of 1964, referred to in subsec. (f), is classified to sections 2000d et seq. of Title 42, The Public Health and Welfare.

AMENDMENTS

1973—Subsec. (f). Pub. L. 93–87 added subsec. (f).

PUBLIC MASS TRANSPORTATION STUDIES; EVALUATION OF 1972 NATIONAL TRANSPORTATION REPORT; REPORT TO CONGRESS OF EVALUATION; TAX REVENUES, STUDY; REPORT TO CONGRESS OF REVENUE STUDIES; APPROPRIATIONS AUTHORIZATION

Section 138 of Pub. L. 93–87 provided that:

"(a) The Secretary shall, in cooperation with the Governor of each State and appropriate local officials, make an evaluation of that portion of the 1972 National Transportation Report, pertaining to public mass transportation. Such evaluation shall include all urban areas. The evaluation shall include but not be limited to the following:

"(1) Refining the public mass transportation needs contained in such report.

"(2) Developing a program to accomplish the needs of each urban area for public mass transportation.

"(3) Analyzing the existing funding capabilities of Federal, State, and local governments for meeting such needs.

"(4) Analyzing other funding capabilities of Federal, State, and local governments for meeting such needs.

"(5) Determining the operating and maintenance costs relating to the public mass transportation system.

"(6) Determining and comparing fare structures of all public mass transportaion systems.

The Secretary shall, not later than July 1, 1974, report to Congress the results of this evaluation together with his recommendations for necessary legislation.

"(b) The Secretary shall conduct a study of revenue mechanisms, including a tax on fuels used in the provision of urban mass transportation service, and an additional gasoline tax imposed in urban areas, which could be used now or in the future to finance transportation activities receiving financial assistance from the Highway Trust Fund. Such study shall include an analysis of the magnitude of the various potential sources of user tax revenues, the rates at which such taxes could be levied (including possible differential rates), the mechanisms for collection of such taxes, the incidence of such taxes, and the potential impact on transit usage caused by such taxes. The Secretary shall report to the Congress the findings of his study by not later than the 180th day after the date of enactment [Aug. 13, 1973] of this section.

"(c) There is hereby authorized not to exceed $10,000,000 to carry out this section."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1603 of this title.

§ 1609. Labor standards.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1604 of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 1–1464 of the District of Columbia Code.

§ 1611. Reporting system and uniform system of accounts; development, testing, etc.; purposes; implementation; coverage as precondition for future award of grants.

(a) The Secretary shall by January 10, 1977, develop, test, and prescribe a reporting system to accumulate public mass transportation financial and operating information by uniform categories and a uniform system of accounts and records. Such systems shall be designed to assist in meeting the needs of individual public mass transportation systems, Federal, State, and local governments, and the public for information on which to base planning for public transportation services, and shall contain information appropriate to assist in the making of public sector investment decisions at all levels of government. The Secretary is authorized to develop and test these systems in consultation with interested persons and organizations. The Secretary is authorized to carry out this subsection independently, or by grant or contract (including working arrangements with other Federal, State, or local government agencies). The Secretary is authorized to request and receive such information or data as he deems appropriate from public or private sources.

(b) After July 1, 1978, the Secretary shall not make any grant under section 1604 of this title unless the applicant for such grant and any person or organization to receive benefits directly from that grant are each subject to both the reporting system and the uniform system of accounts and records prescribed under subsection (a) of this section. (As amended Pub. L. 93–503, title I, § 111, Nov. 26, 1974 88 Stat. 1573.)

AMENDMENTS

1974—Pub. L. 93–503 designated existing provisions as subsec. (a), and, as so designated, substituted provisions requiring the Secretary to development, test and prescribe a reporting system and uniform system of accounts for public mass transportation systems for provisions setting forth limitations for grants within one State, and added subsec. (b).

§ 1612. Planning and design of mass transportation facilities to meet special needs of the elderly and the handicapped.

* * * * *

(b) Grants and loans for special projects to meet the needs of elderly and handicapped persons.

In addition to the grants and loans otherwise provided for under this chapter, the Secretary is authorized to make grants and loans—

(1) to States and local public bodies and agencies thereof for the specific purpose of assisting them in providing mass transportation services which are planned, designed, and carried out so as to meet the special needs of elderly and handicapped persons, with such grants and loans being subject to all of the terms, conditions, requirements, and provisions applicable to grants and loans made under section 1602(a) of this title and being considered for the purposes of all other laws to have been made under such section; and

(2) to private nonprofit corporations and associations for the specific purpose of assisting them in

providing transportation services meeting the special needs of elderly and handicapped persons for whom mass transportation services planned, designed, and carried out under paragraph (1) are unavailable, insufficient, or inappropriate, with such grants and loans being subject to such terms, conditions, requirements, and provisions (similar insofar as may be appropriate to those applicable to grants and loans under paragraph (1)) as the Secretary may determine to be necessary or appropriate for purposes of this paragraph.

Of the total amount of the obligations which the Secretary is authorized to incur on behalf of the United States under the first sentence of section 1603(c) of this title, 2 per centum may be set aside and used exclusively to finance the programs and activities authorized by this subsection (including administrative costs).

* * * * *

(As amended Pub. L. 93–87, title III, § 301(g), Aug. 13, 1973, 87 Stat. 295.)

AMENDMENTS

1973—Subsec. (b). Pub. L. 93–87 incorporated existing provisions in the text designated as cl. (1), added cl. (2), and substituted a rate of "2" for "1½" per centum.

CROSS REFERENCES

Washington Metropolitan Area Transit Authority, payments to; Metro accessibility to the handicapped, see D.C. Code 1973 Ed. § 1–1442a.

Chapter 22.—HIGH-SPEED GROUND TRANSPORTATION

Sec.
1643. Rail system between Tijuana and Vancouver [New].
(a) Investigation and study as to feasibility, etc.; considerations.
(b) Consultation with other Federal, regional, State, and local agencies; contracts and agreements; application of other laws.
(c) Reports and recommendations to Congress and President; time for submission.
(d) Authorization of appropriations.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 1655 of this title.

§ 1631. Research and development.

Consistent with the objective of promoting a safe, adequate, economical, and efficient national transportation system, the Secretary of Transportation (hereafter in this chapter referred to as the "Secretary") is authorized to undertake research and development in high-speed ground transportation and door-to-door ground transportation, including, but not limited to, components, such as materials, aerodynamics, vehicle propulsion, vehicle control, communications, and guideways. (As amended Pub. L. 92–348, § 1(a), July 13, 1972, 86 Stat. 462.)

AMENDMENTS

1972—Pub. L. 92–348 added "and door-to-door ground transportation" following "high-speed ground transportation".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1633, 1635, 1637 of this title.

§ 1632. Demonstrations.

The Secretary is authorized to contract for demonstrations to determine the contributions that high-speed ground transportation and door-to-door ground transportation could make to more efficient, safe, and economical intercity transportation systems. Such demonstrations shall be designed to measure and evaluate such factors as the public response to new equipment, higher speeds, variations in fares, improved comfort and convenience, and more frequent service. In connection with contracts for demonstrations under this section, the Secretary shall provide for financial participation by private industry to the maximum extent practicable. (As amended Pub. L. 92–348, § 1(b), July 13, 1972, 86 Stat. 462.)

AMENDMENTS

1972—Pub. L. 92–348 added "and door-to-door ground transportation" following "high-speed ground transportation" and ", safe," following "efficient".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1633, 1635, 1636, 1637 of this title.

§ 1635. Advisory committee; establishment; composition; appointment; duties.

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on January 5, 1973, to terminate not later than the expiration of the two-year period following January 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law, see sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1637. Authority of Secretary.

HIGH-SPEED TRANSPORTATION DEMONSTRATION; BUS SERVICE ORIGINATING FROM COLLECTION POINTS, WASHINGTON, D.C. AND TERMINATING DULLES INTERNATIONAL AIRPORT, VIRGINIA

Pub. L. 93–87, title I, § 146, Aug. 13, 1973, 87 Stat. 273, provided that: "The Secretary is authorized to undertake a study and demonstration program for high-speed bus service from collection points in the Washington, District of Columbia area to Dulles International Airport, Virginia. Such study and demonstration shall utilize exclusive bus transportation lanes between points of origin and termination of such service, and include, where necessary, the construction of such exclusive bus transportation lanes as well as terminal and parking facilities. Such study and demonstration shall also include the purchase of high-speed buses. As necessary to implement this section, the Secretary shall undertake research into the development of buses designed to maintain high-speed, safe transportation. Not to exceed $10,000,000 of the amount authorized to be apportioned under section 104(b)(6) of title 23, United States Code, for the fiscal year ending June 30, 1975, shall be available to the Secretary to carry out this section and such sum shall be set aside for such purpose prior to the apportionment of such amount for such fiscal year."

§ 1638. Contracts with public or private agencies; appointment of personnel; procurement of services.

(a) (1) In exercising the authority granted under this chapter, the Secretary is authorized to enter into agreements and to contract with public or private agencies, institutions, organizations, corporations, and individuals, without regard to section 529 of Title 31 and section 5 of Title 41.

(2) In awarding contracts in connection with research and development and demonstration projects

under this chapter, the Secretary shall give priority to proposals which will increase employment in labor areas (as those areas are described by the Secretary of Labor in title 41 of the Code of Federal Regulations)—

(A) which are experiencing a rate of unemployment of 9 per centum or more of the area's work force, or a rate of unemployment of 150 per centum or more of the federally determined unemployment rate for the entire United States; or

(B) which have experienced a 1 per centum increase in unemployment, as determined by the Secretary of Labor, of the available work force as a result of the termination or reduction of a federally financed or supported program and such increase in unemployment continues to exist.

Nothing in this paragraph shall be construed to require that any contract awarded under this chapter must be wholly performed in any one labor area.

(3) Except as provided in paragraph (2) of this subsection, the private agencies, institutions, organizations, corporations, and individuals with which the Secretary enters into agreements or contracts to carry out research and development under this chapter shall, to the maximum extent practicable, be geographically distributed throughout the United States.

(4) Each agreement or contract entered into under this chapter under other than competitive bidding procedures, as determined by the Secretary, shall provide that the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, may, for the purpose of audit and examination, have access to any books, documents, papers, and records of the parties to such agreement or contract which are pertinent to the operations or activities under such agreement or contract.

(b) The Secretary is authorized to appoint, subject to the civil service laws and regulations, such personnel as may be necessary to enable him to carry out efficiently his functions and responsibilities under this chapter. The Secretary is further authorized to procure services as authorized by section 3109 of Title 5, but at rates for individuals not to exceed $100 per diem, unless otherwise specified in an appropriation Act. (Pub. L. 89–220, § 8, Sept. 30, 1965, 79 Stat. 894, as amended Pub. L. 92–348, § 2, July 13, 1972, 86 Stat. 462.)

CODIFICATION

In subsec. (b), "section 3109 of Title 5" was substituted for "section 15 of the Act of August 3, 1946 (5 U.S.C. 55a)" on authority of section 7(b) of Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–348 added par. (2), redesignated former pars. (2) and (3) as (3) and (4) respectively, and in par. (3), as so redesignated, substituted "Except as provided in paragraph (2) of this subsection" for "To the maximum extent practicable" and added "to the maximum extent practicable" following "this chapter shall,".

§ 1641. Authorization of appropriations.

There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this chapter, but not to exceed $20,000,000 for the fiscal year ending June 30, 1966; $35,000,000 for the fiscal year ending June 30, 1967; $35,000,000 for the fiscal year ending June 30, 1968; $16,200,000 for the fiscal year ending June 30, 1969; $21,200,000 for the fiscal year ending June 30, 1970; $21,700,000 for the fiscal year ending June 30, 1971; $97,000,000 for the fiscal year ending June 30, 1973; $126,000,000 for the fiscal year ending June 30, 1974; and $92,900,000 for the fiscal year ending June 30, 1975. Such sums shall remain available until expended. (As amended Pub. L. 92–348, § 3, July 13, 1972, 86 Stat. 463.)

AMENDMENTS

1972—Pub. L. 92–348 authorized appropriations of $97,000,000 for the fiscal year ending June 30, 1973, $126,000,000 for the fiscal year ending June 30, 1974, and $92,900,000 for the fiscal year ending June 30, 1975.

§ 1642. Repealed. Pub. L. 92–348, § 4, July 13, 1972, 86 Stat. 463.

Section, Pub. L. 89–220, § 12, Sept. 30, 1965, 79 Stat. 895; Pub. L. 90–423, § 1(f), July 24, 1968, 82 Stat. 424; Pub. L. 91–444, § 1(b), Oct. 13, 1970, 84 Stat. 915, provided for the termination of this chapter on June 30, 1972 and the affect of such termination on the disbursement of funds, contract commitments, or other obligations entered into pursuant to this chapter.

§ 1643. Rail system between Tijuana and Vancouver.

(a) Investigation and study as to feasibility, etc.; considerations.

The Secretary shall make an investigation and study, for the purpose of determining the social advisability, technical feasibility, and economic practicability, of a high-speed ground transportation system between the cities of Tijuana in the State of Baja California, Mexico, and Vancouver in the Province of British Columbia, Canada, by way of the cities of Seattle in the State of Washington, Portland in the State of Oregon, and Sacramento, San Francisco, Fresno, Los Angeles, and San Diego in the State of California. In carrying out such investigation and study the Secretary shall consider—

(1) the various means of providing such transportation, including both existing modes and those under development, such as the tracked levitation vehicle;

(2) the cost of establishing and operating such a system, including any acquisition of necessary rights-of-way;

(3) the environmental impact of such a system, including the future environmental impact from air and other transportation modes if such a system is not established;

(4) the factors which would determine the future adequacy and commercial success of any such system, including the speed at which it would operate, the quality of service which could be offered, its cost to potential users, its convenience to potential users, and its ability to expand to meet projected increases in demand;

(5) the efficiency of energy utilization and impact on energy resources of such a system, including the future impact of existing transportation systems on energy resources if such a system is not established;

(6) the ability of such a system to be integrated with other local and intrastate transportation systems, both existing and planned, in order to create balanced and comprehensive transit systems;

(7) coordination with other studies undertaken on the State and local level;

(8) the impact of the design and location of transportation lines in creating desirable patterns of population distribution and growth; and

(9) such other matters as he deems appropriate.

(b) Consultation with other Federal, regional, State, and local agencies; contracts and agreements; application of other laws.

In carrying out any investigation and study pursuant to this section, the Secretary shall consult with, and give consideration to the views of, the Civil Aeronautics Board, the Interstate Commerce Commission, the National Railroad Passenger Corporation, the Corps of Engineers, and regional, State, and local transportation planning agencies. The Secretary may, for the purpose of carrying out such investigation and study, enter into contracts and other agreements with public or private agencies, institutions, organizations, corporations or individuals, without regard to section 529 of Title 31 and section 5 of Title 41.

(c) Reports and recommendations to Congress and President; time for submission.

The Secretary shall report the results of the study and investigation made pursuant to this section, together with his recommendations, to the Congress and the President no later than January 30, 1977. The Secretary shall submit an interim report to the Congress on January 30, 1976.

(d) Authorization of appropriations.

There are authorized to be appropriated not to exceed $8,000,000 to carry out the provisions of this section. (Pub. L. 89–220, § 13, as added Pub. L. 93–496, § 13, Oct. 28, 1974, 88 Stat. 1531.)

Chapter 23.—DEPARTMENT OF TRANSPORTATION

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 1431 of this title; title 7 section 136q; title 42 sections 4916, 4917.

§ 1652. Establishment of Department.

* * * * *

(b) Deputy Secretary; appointment; functions, powers, and duties.

There shall be in the Department a Deputy Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Secretary (or, during the absence or disability of the Deputy Secretary, or in the event of a vacancy in the office of a Deputy Secretary, an Assistant Secretary or the General Counsel, determined according to such order as the Secretary shall prescribe) shall act for, and exercise the powers of the Secretary, during the absence or disability of the Secretary or in the event of a vacancy in the office of Secretary. The Deputy Secretary shall perform such functions, powers, and duties as the Secretary shall prescribe from time to time.

* * * * *

(As amended Pub. L. 93–496, § 16(a), Oct. 28, 1974, 88 Stat. 1533.)

AMENDMENTS

1974—Subsec. (b). Pub. L. 93–496 substituted "Deputy Secretary" for "Under Secretary" wherever appearing therein.

TRANSFER OF FUNCTIONS

The Bureau of Public Roads was eliminated as a primary organizational unit under the Director of Public Roads in the Department of Transportation and the person who headed such Bureau in the post of Director of Public Roads immediately prior to the enactment of the Federal-Aid Highway Act of 1970, Pub. L. 91–605, was authorized to act as Deputy Administrator of the Federal Highway Administration created by such Act, see section 114(c) of Pub. L. 91–605, Dec. 31, 1970, 84 Stat. 1723, set out as a note under section 303 of Title 23, Highways.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1657 of this title; title 23 section 303.

§ 1653. General provisions.

* * * * *

(c) Judicial review of orders of the Secretary and Administrators.

Orders and actions of the Secretary in the exercise of functions, powers, and duties transferred under this chapter, and orders and actions of the Administrators pursuant to the functions, powers, and duties specifically assigned to them by this chapter, shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the department or agency exercising such functions, powers, and duties immediately preceding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this chapter shall apply to the exercise of such functions by the Secretary or the Administrators.

(d) Carryover of authority to Secretary and Administrators from departments and agencies formerly exercising functions and duties.

In the exercise of the functions, powers, and duties transferred under this chapter, the Secretary and the Administrators shall have the same authority as that vested in the department or agency exercising such functions, powers, and duties immediately preceding their transfer, and their actions in exercising such functions, powers, and duties shall have the same force and effect as when exercised by such department or agency.

* * * * *

(h) Model intermodal transportation terminal at Union Station; authorization for design, plan, and coordination of construction; lease or transfer of space; time for completion of design, plans and construction; authorization of appropriations; application of other laws.

(1) The Secretary is authorized, in consultation with the Secretary of the Interior, to design, plan, and coordinate the construction of a model intermodal transportation terminal at Union Station in the District of Columbia. Such terminal may combine the new railroad passenger station described in

section 802(a)(4) of Title 40, and accommodations for such other modes of transportation as the Secretary deems appropriate. To the extent practicable, the Secretary shall incorporate into the design and plans for such intermodal transportation terminal features which will make such facility a model facility and which will attract private investors willing to undertake the development and construction of the terminal.

(2) Notwithstanding any provision of the National Visitor Center Facilities Act of 1968, in order to facilitate construction of such model intermodal transportation terminal, the Secretary of the Interior shall lease or transfer such space (including air space), which is not required for purposes of the National Visitor Center, as the Secretary of the Interior holds or may acquire north of the Union Station Building to such party or parties and upon such terms and conditions as the Secretary deems appropriate, notwithstanding section 303b of Title 40. The Secretary and the Secretary of the Interior may, to the extent required to complete a visitor center, agree to joint use of the concourse.

(3) The design and plans for the intermodal terminal shall be completed within 2 years following October 28, 1974. The construction of the intermodal terminal shall be completed within 5 years following October 28, 1974.

(4) There is authorized to be appropriated to the Secretary, for the purposes of carrying out this subsection, such sums as are necessary, not to exceed $5,000,000.

(5) Nothing in this subsection shall be construed as relieving the Washington Terminal Company, its successors or assigns, from the obligation to finance and construct a new railroad passenger station in compliance with the terms of section 802(a)(4) of Title 40.

(i) Conversion of railroad terminals into intermodal transportation terminals; assistance by Secretary; criteria for financial assistance; applications; preference; recordkeeping requirements; audit and examination of books, etc.; authorization of appropriations; definitions; eligibility under other Federal programs or plans.

(1) The Secretary shall provide financial, technical, and advisory assistance in accordance with this subsection for the purpose of (A) promoting on a feasibility demonstration basis the conversion of not less than three railroad passenger terminals into intermodal transportation terminals; (B) preserving railroad passenger terminals that have a reasonable likelihood of being converted or otherwise maintained pending the formulation of plans for reuse; and (C) stimulating State and local governments, local and regional transportation authorities, common carriers, philanthropic organizations, and other responsible persons to develop plans for the conversion of railroad passenger terminals into intermodal transportation terminals and civic and cultural activity centers.

(2) Financial assistance for the purpose set forth in paragraph (1)(A) of this subsection shall be granted in accordance with the following criteria: (A) the railroad terminal can be converted to accommodate such other modes of transportation as the Secretary deems appropriate, including motorbus transportation, mass transit (rail or rubber tire), and airline ticket offices and passenger terminal providing direct transportation to area airports; (B) the railroad passenger terminal is listed on the National Register of Historic Places maintained by the Secretary of the Interior; (C) the architectural integrity of the railroad passenger terminal will be preserved and such judgment is concurred in by consultants recommended by the Chairman of the National Endowment of the Arts and the Advisory Council on Historic Preservation and retained for this purpose by the Secretary; (D) to the extent practicable, the use of station facilities for transportation purposes may be combined with use for other civic and cultural activities, especially when such use is recommended by the Advisory Council on Historic Preservation or the Chairman of the National Endowment for the Arts, or the consultants retained by the Secretary upon their recommendation; and (E) the railroad passenger terminal and the conversion project meet such other criteria as the Secretary shall develop and promulgate in consultation with the Chairman of the National Endowment of the Arts and the Advisory Council on Historic Preservation. Any grant made by the Secretary under this paragraph shall not exceed 60 per centum of the total cost of conversion of a railroad passenger terminal into an intermodal transportation terminal.

(3) Financial assistance for the purpose set forth in paragraph (1)(B) of this subsection may be granted in accordance with regulations, to any responsible person (including a governmental entity) who is empowered by applicable law, qualified, prepared, and committed, on an interim basis pending the formulation of plans for reuse, to maintain (and prevent the demolition, dismantling, or further deterioration of) a railroad passenger terminal: *Provided,* That (A) such terminal has, in the opinion of the Secretary, a reasonable likelihood of being converted to or conditioned for reuse as an intermodal transportation terminal, a civic or cultural activities center, or both; and (B) planning activity aimed at conversion or reuse has commenced and is proceeding in a competent manner. Funds appropriated for the purpose of this paragraph and paragraph (1)(B) of this subsection shall be expended in the manner most likely to maximize the preservation of railroad passenger terminals capable reasonably of conversion to intermodal transportation terminals or which are listed in the National Register of Historic Places maintained by the Secretary of the Interior or which are recommended (on the basis of architectural integrity and quality) by the Chairman of the National Endowment for the Arts or the Advisory Council on Historic Preservation. The amount of the Federal share of any grant under this paragraph shall not exceed 60 per centum of the total cost of such interim maintenance for a period not to exceed five years.

(4) Financial assistance for the purpose set forth in paragraph (1)(C) of this subsection may be granted, in accordance with regulations, to a qualified person (including a governmental entity) who is prepared to develop practicable plans meeting the zoning, land use, and other requirements of the ap-

plicable State and local jurisdictions in which the rail passenger terminal is located as well as requirements under this subsection; who shall incorporate into the designs and plans proposed for the conversion of such terminal into an intermodal transportation terminal, a civic or cultural center, or both, features which reasonably appear likely to attract private investors willing to undertake the implementation of such planned conversion and its subsequent maintenance and operation; and who shall complete the designs and plans for such conversion within two years following the approval of the application for Federal financial assistance under this subsection. In making grants under this paragraph, the Secretary shall give preferential consideration to applicants whose completed designs and plans will be implemented and effectuated within three years after the date of completion. Funds appropriated for the purpose of this paragraph and paragraph (1)(C) of this subsection shall be expended in the manner most likely to maximize the conversion and continued public use of railroad passenger terminals which are listed in the National Registor of Historic Places maintained by the Secretary of the Interior or which are recommended (on the basis of architectural integrity and quality) by the Advisory Council on Historic Preservation or the Chairman of the National Endowment for the Arts. The amount of the Federal share of any grant under this paragraph shall not exceed 60 per centum of the total cost of the project or undertaking for which the financial assistance is provided.

(5) Within ninety days after October 28, 1974, the Secretary shall issue, and may from time to time amend, regulations with respect to financial assistance under this subsection and procedures for the award of such assistance. Each application for assistance under this subsection shall be made in writing in such form and with such content and other submissions as the Secretary shall require.

(6) The National Railroad Passenger Corporation shall give preference to using station facilities that would preserve buildings of historical and architectural significance.

(7) Each recipient of financial assistance under this subsection shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance was given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit. Until the expiration of three years after completion of such project or undertaking, the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of such receipts which, in the opinion of the Secretary or the Comptroller General, may be related or pertinent to such financial assistance.

(8) There is authorized to be appropriated to the Secretary for the purpose set forth in paragraph (1)(A) of this subsection sums not to exceed $15,000,000; (B) for the purpose set forth in paragraph (1)(B) of this subsection sums not to exceed $5,000,000; and, (C) for the purpose set forth in paragraph (1)(C) of this subsection sums not to exceed $5,000,000. Such sums as are appropriated shall remain available until expended.

(9) As used in this subsection, "civic and cultural activities" include, but are not limited to, libraries, musical and dramatic presentations, art exhibitions, adult education programs, public meeting place for community groups, convention visitors and others, and facilities for carrying on activities supported in whole or in part under Federal law.

(10) Nothing in this subsection shall be construed to invalidate the eligibility of any station for funds designed to assist in its preservation or reuse under any other Federal program or statute. (As amended Pub. L. 93–496, §§ 6, 15, Oct. 28, 1974, 88 Stat. 1528, 1533; Pub. L. 93–633, title III § 308(2), (3), Jan. 3, 1975, 88 Stat. 2173; Pub. L. 94–25, § 13, May 26, 1975, 89 Stat. 93.)

REFERENCES IN TEXT

The National Visitor Center Facilities Act of 1968, referred to in subsec. (h)(2), is Pub. L. 90–264, Mar. 12, 1968, 82 Stat. 43, which is classified to sections 801 et seq. of Title 40, Public Buildings, Property, and Works.

CODIFICATION

In the original, subsec. (i) is set out as part of section 6 of Pub. L. 93–496. Enactment of subsec. (i) has been editorially credited to section 15 of Pub. L. 93–496 to conform to the probable intent of Congress as evidenced by the directory language of section 15 of Pub. L. 93–496.

AMENDMENTS

1975—Subsec. (c). Pub. L. 93–633, § 308(2), deleted from first and second sentences references to National Transportation Safety Board.

Subsec. (d). Pub. L. 93–633, § 308(3), deleted reference to National Transportation Safety Board.

Subsec. (i)(2). Pub. L. 94–25 struck out a provision requiring the Secretary to make grants not later than July 1, 1976.

1974—Subsecs. (h), (i). Pub. L. 93–496 added subsecs. (h) and (i).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1604, 1656 of this title; title 23 section 117.

§ 1654. Repealed. Pub. L. 93–633, title III, § 308(1), Jan. 3, 1975, 88 Stat. 2173.

Section, Pub. L. 89–670, § 5, Oct. 15, 1966, 80 Stat. 935, provided for the National Transportation Safety Board, the subsections relating as follows to: subsec. (a) establishment of the Safety Board; subsec. (b) functions, powers, and duties of the Safety Board; subsec. (c) aircraft accident investigations; subsec. (d) transportation safety, investigation of transportation accidents, and making recommendations; subsec. (e) publication of reports, orders, decisions, rules, and regulations; subsec. (f) independent status of the Safety Board; subsec. (g) annual report and recommendations to Congress; subsec. (h) membership of Safety Board, appointment and political affiliation of members, fitness, and removal for inefficiency, neglect of duty, or malfeasance in office; subsec. (i) term of office of members and filling of vacancies; subsec. (j) designation of Chairman and Vice Chairman, administrative authority, and requirement of three members to constitute a quorum; subsec. (k) rules and regulations; subsec. (l) conduct of hearings, issuance of subpenas, oaths, witnesses, and reception of evidence; subsec. (m) delegation of functions; subsec. (n) employment of investigators, attorneys, hearing examiners, and other employees; and subsec (o) use of services equipment, personnel, and facilities of other agencies and use of state facilities. Subject matter is now covered by section 1901 et seq. of this title.

§ 1655. Transfer of functions.

(a) Powers and duties of the Secretary of Commerce and other offices and officers of the Department of Commerce relating to highways, ground transportation generally, aircraft, pilotage, and traffic and highway safety generally.

There are hereby transferred to and vested in the Secretary all functions, powers, and duties of the Secretary of Commerce and other offices and officers of the Department of Commerce under—

(1) the following laws and provisions of law relating generally to highways:

(A) Title 23, United States Code, as amended.

(B) The Federal-Aid Highway Act of 1966 (80 Stat. 766).

(C) The Federal-Aid Highway Act of 1962, as amended (76 Stat. 1145; 23 U.S.C. 307 note).

(D) The Act of July 14, 1960, as amended (74 Stat. 526; 23 U.S.C. 313 note).

(E) The Federal-Aid Highway Act of 1954, as amended (68 Stat. 70).

(F) The Act of September 26, 1961, as amended (75 Stat. 670).

(G) The Highway Revenue Act of 1956, as amended (70 Stat. 387; 23 U.S.C. 120 note).

(H) The Highway Beautification Act of 1965, as amended (79 Stat. 1028; 23 U.S.C. 131 et seq. notes).

(I) The Alaska Omnibus Act, as amended (73 Stat. 141; 48 U.S.C. 21 note prec.).

(J) The Joint Resolution of August 28, 1965, as amended (79 Stat. 578; 23 U.S.C. 101 et seq. notes).

(K) Section 502(c) of the General Bridge Act of 1946, as amended (60 Stat. 847; 33 U.S.C. 525(c)).

(L) The Act of April 27, 1962, as amended (76 Stat. 59).

(M) Reorganization Plan No. 7 of 1949 (63 Stat. 1070).

(2) the following laws and provisions of law relating generally to ground transportation:

(A) The Act of September 30, 1965, as amended (79 Stat. 893; 49 U.S.C. 1631 et seq.).

(B) The Urban Mass Transportation Act of 1964, as amended (78 Stat. 306; 49 U.S.C. 1607).

(3) the following laws and provisions of law relating generally to aircraft:

(A) The Act of September 7, 1957, as amended (71 Stat. 629; 49 U.S.C. 1324 note).

(B) Section 410 of the Federal Aviation Act of 1958, as amended (72 Stat. 769; 49 U.S.C. 1380).

(C) Title XIII of the Federal Aviation Act of 1958, as amended (72 Stat. 800; 49 U.S.C. 1531 et seq.).

(4) the following law relating generally to pilotage: The Great Lakes Pilotage Act of 1960, as amended (74 Stat. 259; 46 U.S.C. 216 et seq.).

(5) the following law to the extent it authorizes scientific and professional positions which relate primarily to functions transferred by this subsection: The Act of August 1, 1947, as amended (61 Stat. 715).

(6) the following laws relating generally to traffic and highway safety:

(A) The National Traffic and Motor Vehicle Safety Act of 1966 (80 Stat. 718).

(B) The Highway Safety Act of 1966 (80 Stat. 731).

(b) Coast Guard; functions of the Secretary of the Treasury and other offices and officers of the Department of the Treasury relating to the Coast Guard.

(1) The Coast Guard is hereby transferred to the Department, and there are hereby transferred to and vested in the Secretary all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other officers and offices of the Department of the Treasury.

(2) Notwithstanding the transfer of the Coast Guard to the Department and the transfer to the Secretary of the functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other officers and offices of the Department of the Treasury, effected by the provisions of paragraph (1) of this subsection, the Coast Guard, together with the functions, powers, and duties relating thereto, shall operate as a part of the Navy, subject to the orders of the Secretary of the Navy, in time of war or when the President shall so direct, as provided in section 3 of Title 14.

(3) Notwithstanding any other provision of this chapter, the functions, powers, and duties of the General Counsel of the Department of the Treasury set out in chapter 47 of Title 10 (Uniform Code of Military Justice), are hereby transferred to and vested in the General Counsel of the Department.

(c) Federal Aviation Agency; functions, powers, and duties of Administrator and other officers and offices.

(1) There are hereby transferred to and vested in the Secretary all functions, powers, and duties of the Federal Aviation Agency, and of the Administrator and other officers and offices thereof, including the development and constructon of a civil supersonic aircraft: *Provided, however,* That there are hereby transferred to the Federal Aviation Administrator, and it shall be his duty to exercise the functions, powers, and duties of the Secretary pertaining to aviation safety (other than those relating to the transportation, packaging, marking, or description of hazardous materials) as set forth in sections 306, 307, 308, 309, 312, 313, 314, 1101, 1105, and 1111, and title VI, VII, IX, and XII of the Federal Aviation Act of 1958, as amended. In exercising these enumerated functions, powers, and duties, the Administrator shall be guided by the declaration of policy in section 103 of the Federal Aviation Act of 1958, as amended. Decisions of the Federal Aviation Administrator made pursuant to the exercise of the functions, powers, and duties enumerated in this subsection to be exercised by the Administrator shall be administratively final, and appeals as authorized by law or this chapter shall be taken directly to the National Transportation Safety Board or to the courts, as appropriate.

(2) Nothing in this chapter shall affect the power of the President under section 1343(c) of this title to transfer, to the Department of Defense in the event of war, any functions transferred by this chapter from the Federal Aviation Agency.

(d) Civil Aeronautics Board; chairman, members, officers, and offices; transfer for National Transportation Safety Board.

There are hereby transferred to and vested in the Secretary all functions, powers, and duties of the Civil Aeronautics Board, and of the Chairman, members, officers, and offices thereof under titles VI (72 Stat. 775) and VII (72 Stat. 781) of the Federal Aviation Act of 1958, as amended: *Provided, however,* That these functions, powers, and duties are hereby transferred to and shall be exercised by the National Transportation Safety Board. Decisions of the National Transportation Safety Board made pursuant to the exercise of the functions, powers, and duties enumerated in this subsection shall be administratively final, and appeals as authorized by law or this chapter shall be taken directly to the courts.

(e) Interstate Commerce Commission; functions, powers, and duties relating to safety appliances and equipment on railroad engines and cars, protection of employees and travelers, hours of service, medals for heroism, explosives and other dangerous articles, standard time zones and daylight saving time; safety of operation and equipment.

There are hereby transferred to and vested in the Secretary all functions, powers, and duties of the Interstate Commerce Commission, and of the Chairman, members, officers, and offices thereof, under—

(1) The following laws relating generally to safety appliances and equipment on railroad engines and cars, and protection of employees and travelers:

(A) The Act of March 2, 1893, as amended (27 Stat. 531; 45 U.S.C. 1 et seq.).

(B) The Act of March 2, 1903, as amended (32 Stat. 943; 45 U.S.C. 8 et seq.).

(C) The Act of April 14, 1910, as amended (36 Stat. 298; 45 U.S.C. 11 et seq.).

(D) The Act of May 30, 1908, as amended (35 Stat. 476; 45 U.S.C. 17 et seq.).

(E) The Act of February 17, 1911, as amended (36 Stat. 913; 45 U.S.C. 22 et seq.).

(F) The Act of March 4, 1915, as amended (38 Stat. 1192; 45 U.S.C. 30).

(G) Reorganization Plan No. 3 of 1965 (79 Stat. 1320).

(H) Joint Resolution of June 30, 1906, as amended (34 Stat. 838; 45 U.S.C. 35).

(I) The Act of May 27, 1908, as amended (35 Stat. 325; 45 U.S.C. 36 et seq.).

(J) The Act of March 4, 1909, as amended (35 Stat. 965; 45 U.S.C. 37).

(K) The Act of May 6, 1910, as amended (36 Stat. 350; 45 U.S.C. 38 et seq.).

(2) the following law relating generally to hours of service of employees: The Act of March 4, 1907, as amended (34 Stat. 1415; 45 U.S.C. 61 et seq.).

(3) the following law relating generally to medals for heroism: The Act of February 23, 1905, as amended (33 Stat. 743; 49 U.S.C. 1201 et seq.).

(4) the following provisions of law relating generally to explosives and other dangerous articles: Sections 831–835 of Title 18.

(5) the following laws relating generally to standard time zones and daylight saving time:

(A) The Act of March 19, 1918, as amended (40 Stat. 450; 15 U.S.C. 261 et seq.).

(B) The Act of March 4, 1921, as amended (41 Stat. 1446; 15 U.S.C. 265).

(C) The Uniform Time Act of 1966, as amended (80 Stat. 107).

(6) the following provisions of the Interstate Commerce Act, as amended—

(A) relating generally to safety appliance methods and systems: Section 25 (49 U.S.C. 26).

(B) relating generally to investigation of motor vehicle sizes, weights, and service of employees: Section 226 (49 U.S.C. 325).

(C) relating generally to qualifications and maximum hours of service of employees and safety of operation and equipment: Sections 204(a) (1) and (2), to the extent that they relate to qualifications and maximum hours of service of employees and safety of operation and equipment; and sections 204(a) (3), (3a), and (5) (49 U.S.C. 304).

(D) to the extent they relate to private carriers of property by motor vehicle and carriers of migrant workers by motor vehicle other than contract carriers: Sections 221(a), 221(c), and 224 (49 U.S.C. 321 et seq.).

(f) Retention by Interstate Commerce Commission of powers and functions not expressly transferred; railroad and motor carrier safety under Federal Railroad and Federal Highway Administrators; review of administrative decisions.

(1) Nothing in subsection (e) shall diminish the functions, powers, and duties of the Interstate Commerce Commission under sections 1(6), 206, 207, 209, 210a, 212, and 216 of the Interstate Commerce Act, as amended (49 U.S.C. 1(6), 306 et seq.), or under any other section of that Act not specifically referred to in subsection (e).

(2)(A) With respect to any function which is transferred to the Secretary by subsection (e) and which was vested in the Interstate Commerce Commission preceding such transfer, the Secretary shall have the same administrative powers under the Interstate Commerce Act as the Commission had before such transfer with respect to such transferred function. After such transfer, the Commission may exercise its administrative powers under the Interstate Commerce Act only with respect to those of its functions not transferred by subsection (e).

(B) For purposes of this paragraph—

(i) the term "function" includes power and duty, and

(ii) the term "administrative powers under the Interstate Commerce Act" means any functions under the following provisions of the Interstate Commerce Act, as amended: Sections 12, 13(1), 13(2), 14, 16(12), the last sentence of 18(1), sections 20 (except clauses (3), (4), (11), and (12) thereof), 204(a) (6) and (7), 204(c), 204(d), 205(d), 205(f), 220 (except subsection (c) and the proviso of subsection (a) thereof), 222 (except subsections (b)(2) and (b)(3) thereof), and 417 (b)(1) (49 U.S.C. 12 et seq. 304 et seq., and 1017).

(3)(A) The Federal Railroad Administrator shall carry out the functions, powers, and duties of the Secretary pertaining to railroad safety as set forth

in the statutes transferred to the Secretary by subsection (e) of this section (other than subsection (e)(4) of this section).

(B) The Federal Highway Administrator shall carry out the functions, powers, and duties of the Secretary pertaining to motor carrier safety as set forth in the statutes transferred to the Secretary by subsection (e) of this section (other than subsection (e)(4) of this section).

(C) Decisions of the Federal Railroad Administrator and the Federal Highway Administrator (i) which are made pursuant to the exercise of the functions, powers, and duties enumerated in subparagraphs (A) and (B) of this paragraph to be carried out by the Administrators, and (ii) which involve notice and hearing required by law, shall be administratively final, and appeals as authorized by law or this chapter shall be taken directly, to the National Transportation Safety Board or the courts, as appropriate.

(g) Department of the Army; functions, powers, and duties of the Secretary of the Army relating to water vessel anchorages, drawbridge operating regulations, obstructive bridges, tolls, prevention of pollution of the sea by oil, and location and clearance of bridges and causeways on navigable waters.

There are hereby transferred to and vested in the Secretary all functions, powers, and duties of the Secretary of the Army and other officers and offices of the Department of the Army under—

(1) the following law and provisions of law relating generally to water vessel anchorages:

(A) Section 7 of the Act of March 4, 1915, as amended (38 Stat. 1053; 33 U.S.C. 471).

(B) Article 11 of section 1 of the Act of June 7, 1897, as amended (30 Stat. 98; 33 U.S.C. 180).

(C) Rule 9 of section 1 of the Act of February 8, 1895, as amended (28 Stat. 647; 33 U.S.C. 258).

(D) Rule numbered 13 of section 4233 of the Revised Statutes, as amended (33 U.S.C. 322).

(2) the following provision of law relating generally to drawbridge operating regulations: Section 5 of the Act of August 18, 1894, as amended (28 Stat. 362; 33 U.S.C. 499).

(3) the following law relating generally to obstructive bridges: The Act of June 21, 1940, as amended (54 Stat. 497; 33 U.S.C. 511 et seq.).

(4) the following laws and provisions of law relating generally to the reasonableness of tolls:

(A) Section 4 of the Act of March 23, 1906, as amended (34 Stat. 85; 33 U.S.C. 494).

(B) Section 503 of the General Bridge Act of 1946, as amended (60 Stat. 847; 33 U.S.C. 526).

(C) Section 17 of the Act of June 10, 1930, as amended (46 Stat. 552; 33 U.S.C. 498a).

(D) The Act of June 27, 1930, as amended (46 Stat. 821; 33 U.S.C. 498b).

(E) The Act of August 21, 1935, as amended (49 Stat. 670; 33 U.S.C. 503 et seq.).

(5) the following law relating to prevention of pollution of the sea by oil: The Oil Pollution Act, 1961, as amended (75 Stat. 402; 33 U.S.C. 1001 et seq.).

(6) the following laws and provision of law to the extent that they relate generally to the location and clearances of bridges and causeways in the navigable waters of the United States:

(A) Section 9 of the Act of March 3, 1899, as amended, (30 Stat. 1151; 33 U.S.C. 401).

(B) The Act of March 23, 1906, as amended (34 Stat. 84; 33 U.S.C. 491 et seq.).

(C) The General Bridge Act of 1946; as amended (60 Stat. 847; 33 U.S.C. 525 et seq.).

(h) Applicability of administrative procedure and judicial review provisions of Title 5.

The provisions of subchapter II of chapter 5 and of chapter 7 of Title 5 shall be applicable to proceedings by the Department and any of the administrations or boards within the Department established by this chapter except that notwithstanding this or any other provision of this chapter, the transfer of functions, powers, and duties to the Secretary or any other officer in the Department shall not include functions vested by subchapter II of chapter 5 of Title 5 in hearing examiners employed by any department, agency, or component thereof whose functions are transferred under the provisions of this chapter.

(i) Alaska Railroad.

The administration of the Alaska Railroad, established pursuant to the Act of March 12, 1914, as amended (38 Stat. 308), and all of the functions authorized to be carried out by the Secretary of the Interior pursuant to Executive Order Numbered 11107, April 25, 1963 (28 F.R. 4225), relative to the operation of said Railroad, are hereby transferred to and vested in the Secretary of Transportation who shall exercise the same authority with respect thereto as is now exercised by the Secretary of the Interior pursuant to said Executive order. (Pub. L. 89–670, § 6, Oct. 15, 1966, 80 Stat. 937, amended Pub. L. 92–401, § 6, Aug. 22, 1972, 86 Stat. 617; Pub. L. 93–633, title I, § 113 (d), (e), Jan. 3, 1975, 88 Stat. 2163.)

REFERENCES IN TEXT

The Highway Revenue Act of 1956, as amended, referred to in subsec. (a)(1)(G), is act June 29, 1956, ch. 462, 70 Stat. 387, which was classified to Title 26, Internal Revenue Code of 1954, and provisions set out as notes under sections throughout Title 23, Highways.

The Act of April 27, 1962, as amended, referred to in subsec. (a)(1)(L), is Pub. L. 87–441, Apr. 27, 1962, 76 Stat. 59, which was not classified to the Code.

Section 410 of the Federal Aviation Act of 1958, as amended, referred to in subsec. (a)(3)(B), is classified to section 1380 of this title.

The act of Aug. 1, 1947, as amended, referred to in subsec. (a)(5), is now covered by sections 3104, 3325, and 5361 of Title 5, Government Organization and Employees.

Titles VI (72 Stat. 775) and VII (72 Stat. 781) of the Federal Aviation Act of 1958, as amended, referred to in subsec. (d), are classified to sections 1421 et seq. and 1441 et seq. of this title.

The Uniform Time Act of 1966, as amended (80 Stat. 108), referred to in subsec. (e)(5)(C), is classified to subchapter IX (§ 260 et seq.) of chapter 6 of Title 15, Commerce and Trade.

The Act of March 12, 1914, as amended (38 Stat. 308), referred to in subsec. (i), means the Alaska Railroad Act, which is classified to section 353a of Title 16, Conservation and sections 975 to 975g of Title 43, Public Lands.

AMENDMENTS

1975—Subsec. (c)(1). Pub. L. 93–633, § 113(d), inserted in first sentence after "aviation safety" the text reading "(other than those relating to the transportation, packaging, marking, or description of hazardous materials)" and preceding "as set forth".

Subsec. (f)(3)(A), (B). Pub. L. 93–633, § 113(e), inserted end text "(other than subsection (e)(4) of this section)".

1972—Subsec. (f)(3)(A). Pub. L. 92–401 substituted "railroad safety" for "railroad and pipeline safety".

EFFECTIVE DATE OF 1975 AMENDMENT; CONTINUANCE OF PRIOR PROVISIONS; TWO YEAR LIMITATION AFTER JAN. 3, 1975, FOR ARRANGEMENTS, INCLUDING LICENSES, ETC., TO COMPLY WITH PUB. L. 93–633; PENDING PROCEEDINGS UNAFFECTED

Amendment by Pub. L. 93–633 effective Jan. 3, 1975, except as otherwise provided, see section 114 of Pub. L. 93–633, set out as a note under section 1801 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1657, 1903 of this title.

§ 1657. Administrative provisions.

* * * * *

(p) Appointment of Coast Guard personnel on active duty to serve with Department; retired Coast Guard personnel.

(1) Notwithstanding any provision of this chapter or other law, a member of the Coast Guard on active duty may be appointed, detailed, or assigned to any position in the Department other than Secretary, Deputy Secretary, and Assistant Secretary for Administration.

(2) Subject to the provisions of Title 5 a retired member of the Coast Guard may be appointed to any position in the Department.

* * * * *

(As amended Pub. L. 93–496, § 16(b), Oct. 28, 1974, 88 Stat. 1533.)

AMENDMENTS

1974—Subsec. (p)(1). Pub. L. 93–496 substituted "Deputy Secretary" for "Under Secretary".

TRANSFER OF FUNCTIONS

All functions vested by law (including reorganization plan) in the Bureau of the Budget or the Director of the Bureau of the Budget were transferred to the President of the United States by section 101 of 1970 Reorg. Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085. Section 102 of 1970 Reorg. Plan No. 2, redesignated the Bureau of the Budget as the Office of Management and Budget. See Change of Name note set out under this section in the main volume.

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on January 5, 1973, to terminate not later than the expiration of the two-year period following January 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 14 section 42.

§ 1658. Annual reports.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 33 section 535h.

Chapter 24.—NATURAL GAS PIPELINE SAFETY

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 1811 of this title.

§ 1674. State certifications and agreements.

(a) Report to Secretary by State agency; annual certification.

Except for the fourth sentence of section 1672(b) of this title, section 1681(b) of this title, and except as otherwise provided in this section, the provisions of this chapter shall not apply to pipeline facilities and the transportation of gas (not subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act) within a State when the safety standards and practices applicable to same are regulated by a State agency (including a municipality) which submits to the Secretary an annual certification that such State agency (1) has regulatory jurisdiction over the safety standards and practices of such pipeline facilities and transportation of gas; (2) has adopted each Federal safety standard applicable to such pipeline facilities and transportation of gas established under this chapter as of the date of the certification; (3) is enforcing each such standard; and (4) has the authority to require record maintenance, reporting, and inspection substantially the same as are provided under section 1681 of this title and the filing for approval of plans of inspection and maintenance described in section 1680 of this title; and that the law of the State makes provision for the enforcement of the safety standards of such State agency by way of injunctive and monetary sanctions substantially the same as are provided under sections 1678 and 1679 of this title; except that a State agency may file a certification under this subsection without regard to the requirement of injunctive and monetary sanctions under State law for a period not to exceed five years after August 12, 1968. Each annual certification shall include a report, in such form as the Secretary may by regulation provide, showing (i) name and address of each person subject to the safety jurisdiction of the State agency; (ii) all accidents or incidents reported during the preceding twelve months by each such person involving personal injury requiring hospitalization, fatality, or property damage exceeding $1,000, together with a summary of the State agency's investigation as to the cause and circumstances surrounding such accident or incident; (iii) the record maintenance, reporting, and inspection practiced by the State agency to enforce compliance with such Federal safety standards, including a detail of the number of inspections made of pipeline facilities by the State agency during the preceding twelve months; and (iv) such other information as the Secretary may require. The report included with the first annual certification need not show information unavailable at that time. If after receipt of annual certification, the Secretary determines that the State agency is not satisfactorily enforcing compliance with Federal safety standards, he may, on reasonable notice and after opportunity for hearing, reject the certification or take such other action as he deems appropriate to achieve adequate enforcement including the assertion of Federal jurisdiction. When such notice is given by the Secretary, the burden of proof shall be upon the State agency to show that it is satisfactorily enforcing compliance with Federal safety standards.

* * * * *

(c) Grants to aid State enforcement; withholding funds from State agency.

(1) Except as otherwise provided in this section, if an application is submitted not later than September 30 in any calendar year, the Secretary shall

pay out of funds appropriated or otherwise made available up to 50 per centum of the cost of the personnel, equipment, and activities of a State agency reasonably required, during the following calendar year to carry out a safety program under a certification under subsection (a) or an agreement under subsection (b) of this section; or to act as agent of the Secretary with respect to interstate transmission facilities. The Secretary may, after notice and consultation with a State agency, withhold all or any part of the funds for a particular State agency if he determines that such State agency (A) is not satisfactorily carrying out a safety program under a certification under subsection (a) or an agreement under subsection (b) of this section, or (B) is not satisfactorily acting as agent of the Secretary with respect to interstate transmission facilities. No such payment may be made unless the State agency making application under this subsection gives assurances satisfactory to the Secretary that the State agency will provide the remaining cost of such a safety program and that the aggregate expenditures of funds of the State, exclusive of Federal grants, for gas safety programs will be maintained at a level which does not fall below the average level of such expenditures for the last two fiscal years preceding the date of enactment of this section.

(2) Funds authorized to be appropriated by section 1684(b) of this title shall be allocated among the several States for payments to aid in the conduct of pipeline safety programs in accordance with paragraph (1) of this subsection.

(3) Payments under this section may be made in installments, in advance or by way of reimbursement, with necessary adjustments on account of overpayments and underpayments.

(4) The Secretary may, by regulation, provide for the form and manner of filing of applications under this section, and for such reporting and fiscal procedures as he deems necessary to assure the proper accounting for Federal funds.

* * * * *

(As amended Pub. L. 92–401, §§ 1, 2, Aug. 22, 1972, 86 Stat. 616; Pub. L. 93–403, § 2, Aug. 30, 1974, 88 Stat. 802.)

CODIFICATION

Reference in subsec. (c)(2) to paragraph (1) of this "subsection" was, in the original, a reference to paragraph (1) of this "section". Substitution of "subsection" for "section" was made as the probable intent of Congress.

AMENDMENTS

1974—Subsec. (c). Pub. L. 93–403 redesignated pars. (2) and (3) as pars. (3) and (4), respectively, and added par. (2).

1972—Subsec. (a). Pub. L. 92–401, § 1, substituted "five" for "two" years in first sentence.

Subsec. (c)(1). Pub. L. 92–401, § 2, inserted introductory phrase "Except as otherwise provided in this section", provision for State agency acting as agent of the Secretary with respect to interstate transmission facilities, and provision for withholding funds for not carrying out satisfactorily the State safety program or acting as agent with respect to the interstate transmission facilities.

SHORT TITLE

Section 1 of Pub. L. 93–403 provided: "That this Act [amending this section and section 1684 of this title] may be cited as the 'Natural Gas Pipeline Safety Act Amendments of 1974'."

STATE PIPELINE SAFETY PROGRAMS; REPORT TO PRESIDENT AND CONGRESS

Section 5 of Pub. L. 92–401 provided that:

"The Secretary of Transportation shall prepare and submit to the President for transmittal to the Congress on March 17, 1973, a report which shall contain—

"(1) a description of the pipeline safety program being conducted in each State;

"(2) annual projections of each State agency's needs for personnel, equipment, and activities reasonably required to carry out such State's program during each calendar year from 1973 through 1978 and estimates of the annual costs thereof;

"(3) the source or sources of State funds to finance such programs;

"(4) the amount of Federal assistance needed annually;

"(5) an evaluation of alternative methods of allotting Federal funds among the States that desire Federal assistance, including recommendations, if needed for a statutory formula for apportioning Federal funds; and

"(6) a discussion of other problems affecting cooperation among the States that relate to effective participation of State agencies in the national pipeline safety program.

The report shall be prepared by the Secretary after consultation with the cooperating State agencies and the national organization of State commissions."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1672, 1680, 1683, 1684 of this title.

§ 1682. Administration.

* * * * *

(d) Consultation with other agencies.

The Secretary is authorized to consult with, and make recommendations to, other Federal departments and agencies, State and local governments, and other public and private agencies or persons, for the purpose of developing and encouraging activities, including the enactment of legislation, to assist in the implementation of this chapter and to improve State and local pipeline safety programs. (As amended Pub. L. 92–401, § 3, Aug. 22, 1972, 86 Stat. 616.)

AMENDMENTS

1972—Subsec. (d). Pub. L. 92–401 added subsec. (d).

§ 1684. Authorization of appropriations.

(a) There are authorized to be appropriated $2,000,000 for the fiscal year ending June 30, 1975, and $2,850,000 for the fiscal year ending June 30, 1976, for the purpose of carrying out the provisions of this chapter, except that the funds appropriated pursuant to this subsection shall not be used for Federal grants-in-aid.

(b) For the purpose of carrying out the provisions of section 1674(c) of this title, there are authorized to be appropriated for Federal grants-in-aid, $1,800,000 for the fiscal year ending June 30, 1975, and $2,500,000 for the fiscal year ending June 30, 1976. (As amended Pub. L. 92–401, § 4, Aug. 22, 1972, 86 Stat. 616; Pub. L. 93–403, § 3, Aug. 30, 1974, 88 Stat. 802.)

AMENDMENTS

1974—Pub. L. 93–403 designated existing provisions as subsec. (a) and, in subsec. (a) as so designated, substituted provisions authorizing appropriations of $2,000,000 and $2,850,000 for fiscal years ending June 30, 1975, and June 30, 1976, respectively, to be used in programs other than Federal grants-in-aid, for provisions authorizing appropriations of $3,000,000, $3,800,000, and $5,000,000 for fiscal years ending June 30, 1972, 1973, and 1974, respectively, and added subsec. (b).

1972—Pub. L. 92-401 substituted appropriations authorization of $3,000,000, $3,800,000, and $5,000,000 for fiscal years ending June 30, 1972, 1973, and 1974, for prior appropriations authorization of $500,000, $2,000,000, and $4,000,000 for fiscal years ending June 30, 1969, 1970, and 1971.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1674 of this title.

Chapter 25.—AVIATION FACILITIES EXPANSION AND IMPROVEMENT

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 1354 of this title; title 40 App., sections 208, 214.

§ 1711. Definitions.

As used in this subchapter—

* * * * *

(2) "Airport development" means (A) any work involved in construction, improving, or repairing a public airport or portion thereof, including the removal, lowering, relocation, and marking and lighting of airport hazards, and including navigation aids used by aircraft landing at, or taking off from, a public airport, and including safety equipment required by rule or regulation for certification of the airport under section 1432 of this title, and security equipment required of the sponsor by the Secretary by rule or regulation for the safety and security of persons and property on the airport, and (B) any acquisition of land or of any interest therein, or of any easement through or other interest in airspace, including land for future airport development, which is necessary to permit any such work or to remove or mitigate or prevent or limit the establishment of, airport hazards.

* * * * *

(8) "Planning agency" means any planning agency designated by the Secretary which is authorized by the laws of the State or States (including the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and Guam) or political subdivisions concerned to engage in areawide planning for the areas in which assistance under this subchapter is to be used.

* * * * *

(11) "Public agency" means a State, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, or Guam or any agency of any of them; a municipality or other political subdivision; or a tax-supported organization; or an Indian tribe or pueblo.

* * * * *

(As amended Pub. L. 92-174, § 4(a), Nov. 27, 1971, 85 Stat. 492; Pub. L. 93-44, § 2, June 18, 1973, 87 Stat. 88.)

AMENDMENTS

1973—Par. (2). Pub. L. 93-44 defined "airport development" to include work involved in constructing, improving, or repairing security equipment required of the sponsor by the Secretary by rule or regulation for the safety and security of persons and property on the airport.

1971—Pars. (8), (11). Pub. L. 92-174 inserted references to American Samoa and the Trust Territory of the Pacific Islands.

SHORT TITLE

Section 1 of Pub. L. 93-44 provided that: "This Act [which enacted section 1513 of this title, amended par (2) of this section, and amended sections 1714(a)(1), (2), (b), 1716(c)(1), and 1717 of this title] may be cited as the 'Airport Development Acceleration Act of 1973'."

§ 1712. National airport system plan.

(a) Formulation.

The Secretary is directed to prepare and publish, within three years after May 21, 1970, and thereafter to review and revise as necessary, a national airport system plan for the development of public airports in the United States. The plan shall set forth, for at least a ten-year period, the type and estimated cost of airport development considered by the Secretary to be necessary to provide a system of public airports adequate to anticipate and meet the needs of civil aeronautics, to meet requirements in support of the national defense as determined by the Secretary of Defense, and to meet the special needs of the postal service. The plan shall include all types of airport development eligible for Federal aid under section 1714 of this title and terminal area development considered necessary to provide for the efficient accommodation of persons and goods at public airports, and the conduct of functions in operational support of the airport. Airport development identified by the plan shall not be limited to the requirements of any classes or categories of public airports. In preparing the plan, the Secretary shall consider the needs of all segments of civil aviation.

* * * * *

(h) Aviation Advisory Commission; establishment; membership; duties; compensation and travel expenses; personnel, experts, and consultants; administrative services; information, assistance, and cooperation of Governmental agencies; report to President and Congress; termination; appropriation.

* * * * *

(5) The Commission shall submit to the President and to the Congress, on or before January 1, 1973, a final report containing the recommendations formulated by it under this subsection. The Commission shall cease to exist 60 days after the date of the submission of its final report.

* * * * *

(As amended Pub. L. 92-174, § 1, Nov. 27, 1971, 85 Stat. 491; Pub. L. 93-44, § 6, June 18, 1973, 87 Stat. 90.)

AMENDMENTS

1973—Subsec. (a). Pub. L. 93-44 substituted requirement that national airport system plan be published within three years after May 21, 1970, for prior two year requirement.

1971—Subsec. (h)(5). Pub. L. 92-174 substituted "January 1, 1973" for "January 1, 1972".

TERMINATION OF ADVISORY COMMISSIONS

Advisory Commissions in existence on January 5, 1973, to terminate not later than the expiration of the two-year period following January 5, 1973, unless, in the case of a Commission established by the President or an officer of the Federal Government, such Commission is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a Commission established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1713. Planning grants.

* * * * *

(b) Amount and apportionment of grants.

The award of grants under subsection (a) of this section is subject to the following limitations:

* * * * *

(3) No more than 7.5 per centum of the funds made available under this section in any fiscal year may be allocated for projects within a single State, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, or Guam. Grants for projects encompassing an area located in two or more States shall be charged to each State in the proportion which the number of square miles the project encompasses in each State bears to the square miles encompassed by the entire project.

* * * * *

(As amended Pub. L. 92–174, § 4(a), Nov. 27, 1971, 85 Stat. 492.)

AMENDMENTS

1971—Subsec. (b)(3). Pub. L. 92–174 inserted reference to American Samoa and the Trust Territory of the Pacific Islands.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1720 of this title.

§ 1714. Airport and airway development program.

(a) General authority.

In order to bring about, in conformity with the national airport system plan, the establishment of a nationwide system of public airports adequate to meet the present and future needs of civil aeronautics, the Secretary is authorized to make grants for airport development by grant agreements with sponsors in aggregate amounts not less than the following:

(1) For the purpose of developing in the several States, the Commonwealth of Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands, airports served by air carriers certificated by the Civil Aeronautics Board, and airports the primary purpose of which is to serve general aviation and to relieve congestion at airports having a high density of traffic serving other segments of aviation, $250,000,000 for each of the fiscal years 1971 through 1973, and $275,000,000 for each of the fiscal years 1974 and 1975.

(2) For the purpose of developing in the several States, the Commonwealth of Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands, airports serving segments of aviation other than air carriers certificated by the Civil Aeronautics Board, $30,000,000 for each of the fiscal years 1971 through 1973, and $35,000,000 for each of the fiscal years, 1974 and 1975.

(b) Obligational authority.

To facilitate orderly long-term planning by sponsors, the Secretary is authorized, effective on May 21, 1970, to incur obligations to make grants for airport development from funds made available under this subchapter for the fiscal year ending June 30, 1971, and the succeeding four fiscal years in a total amount not to exceed $1,460,000,000. No obligation shall be incurred under this subsection for a period of more than three fiscal years and no such obligation shall be incurred after June 30, 1975. The Secretary shall not incur more than one obligation under this subsection with respect to any single project for airport development. Obligations incurred under this subsection shall not be liquidated in an aggregate amount exceeding $280,000,000 prior to June 30, 1971, an aggregate amount exceeding $560,000,000 prior to June 30, 1972, an aggregate amount exceeding $840,000,000 prior to June 30, 1973, an aggregate amount exceeding $1,150,000,000 prior to June 30, 1974, and an aggregate amount exceeding $1,460,000,000 prior to June 30, 1975.

* * * * *

(d) Other expenses.

The balance of the moneys available in the trust fund may be allocated for the necessary administrative expenses incident to the administration of programs for which funds are to be allocated as set forth in subsections (a), (b), and (c) of this section, and for research and development activities under section 1353(c) of this title (as it relates to safety in air navigation). The initial $50,000,000 of any sums appropriated to the trust fund pursuant to subsection (d) of section 1742 of this title shall be allocated to such research and development activities.

(e) Preservation of funds and priority for airport and airway programs.

(1) Notwithstanding any other provision of law to the contrary, no amounts may be appropriated from the trust fund to carry out any program or activity under the Federal Aviation Act of 1958, except programs or activities referred to in subsections (c) and (d) of this section, as amended.

(2) Amounts equal to the minimum amounts authorized for each fiscal year by subsections (a) and (c) of this section shall remain available in the trust fund until appropriated for the purposes described in such subsections.

(3) No amounts transferred to the trust fund by subsection (b) of section 1742 of this title (relating to aviation user taxes) may be appropriated for any fiscal year to carry out administrative expenses of the Department of Transportation or of any unit thereof except to the extent authorized by subsection (d) of this section. (As amended Pub. L. 92–174, §§ 2, 3, 4(b), Nov. 27, 1971, 85 Stat. 491, 492; Pub. L. 93–44, § 3, June 18, 1973, 87 Stat. 89.)

REFERENCES IN TEXT

The Federal Aviation Act of 1958, referred to in subsec. (e)(1), is classified to section 1301 et seq. of this title.

AMENDMENTS

1973—Subsec. (a)(1). Pub. L. 93–44, § 3(a)(1), increased authorization of appropriations for fiscal years 1974 and 1975 from $250,000,000 to $275,000,000.

Subsec. (a)(2). Pub. L. 93–44, § 3(a)(2), increased authorization of appropriations for fiscal years 1974 and 1975 from $30,000,000 to $35,000,000.

Subsec. (b). Pub. L. 93–44, § 3(b), substituted $1,460,000,000" for "$840,000,000" in first sentence, substituted "be incurred after" for "extend beyond" in second sentence, and limited (in last sentence) liquidation of obligations in an aggregate amount not exceeding $1,150,000,000 prior to June 30, 1974, and $1,460,000,000 prior to June 30, 1975.

1971—Subsec. (a). Pub. L. 92–174, § 4(b), added references to American Samoa and the Trust Territory of the Pacific Islands.

Subsec. (d). Pub. L. 92–174, § 2, substituted reference to moneys covering administrative expenses incident to the administration of programs for which funds are to be allocated as set forth in subsection (c) of this section, for reference to moneys covering the maintenance and operation of air navigation facilities and the conduct of other functions under section 1348(b) of this title not otherwise provided for in subsection (c) of this section.

Subsec. (e). Pub. L. 92–174, § 3, added subsec. (e).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1711, 1712, 1715 of this title.

§ 1715. Distribution of funds; State apportionment.

* * * * *

(b) Discretionary fund; creation and uses.

* * * * *

(2) The discretionary fund shall be available for such approved projects for airport development in the several States, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and Guam as the Secretary considers most appropriate for carrying out the national airport system plan regardless of the location of the projects. In determining the projects for which the fund is to be used, the Secretary shall consider the existing airport facilities in the several States, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and Guam, and the need for or lack of development of airport facilities in the several States, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and Guam. Amounts placed in the discretionary fund pursuant to subsection (a) of this section, including amounts added to the discretionary fund pursuant to paragraph (3) of such subsection (a), may be used only in accordance with the purposes for which originally appropriated.

* * * * *

(As amended Pub. L. 92–174, § 4(a), Nov. 27, 1971, 85 Stat. 492.)

AMENDMENTS

1971—Subsec. (b)(2). Pub. L. 92–174 inserted reference to American Samoa and the Trust Territory of the Pacific Islands.

§ 1716. Project applications for airport development.

* * * * *

(c) Approval.

(1) All airport development projects shall be subject to the approval of the Secretary, which approval may be given only if he is satisfied that—

* * * * *

No airport development project may be approved by the Secretary with respect to any airport unless a public agency or the United States or an agency thereof holds good title, satisfactory to the Secretary, to the landing area of the airport or the site therefor, or gives assurance satisfactory to the Secretary that good title will be acquired.

* * * * *

(As amended Pub. L. 93–44, § 4, June 18, 1973, 87 Stat. 89.)

AMENDMENTS

1973—Subsec. (c)(1). Pub. L. 93–44 conditioned approval of airport development project on existence of a good title held by the United States or an agency thereof.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1711, 1717, 1722 of this title.

§ 1717. United States share of project costs.

(a) General provision.

Except as otherwise provided in this section, the United States share of allowable project costs payable on account of any approved airport development project submitted under section 1716 of this title may not exceed—

(1) 50 per centum for sponsors whose airports enplane not less than 1 per centum of the total annual passengers enplaned by air carriers certificated by the Civil Aeronautics Board; and

(2) 75 per centum for sponsors whose airports enplane less than 1 per centum of the total annual passengers enplaned by air carriers certificated by the Civil Aeronautics Board and for sponsors of general aviation or reliever airports.

* * * * *

(c) Projects in Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

The United States share payable on account of any approved project for airport development in the Virgin Islands, American Samoa, or the Trust Territory of the Pacific Islands shall be any portion of the allowable project costs of the project, not to exceed 75 per centum, as the Secretary considers appropriate for carrying out the provisions of this subchapter.

* * * * *

(e) Safety certification and security equipment.

(1) To the extent that the project cost of an approved project for airport development represents the cost of safety equipment required by rule or regulation for certification of an airport under section 1432 of this title the United States share may not exceed 82 per centum of the allowable cost thereof with respect to airport development project grant agreements entered into after May 10, 1971.

(2) To the extent that the project cost of an approved project for airport development represents the cost of security equipment required by the Secretary by rule or regulation, the United States share may not exceed 82 per centum of the allowable cost thereof with respect to airport development project grant agreements entered into after September 28, 1971. (As amended Pub. L. 92–174, § 4(c), Nov. 27, 1971, 85 Stat. 492; Pub. L. 93–44, § 5, June 18, 1973, 87 Stat. 89.)

AMENDMENTS

1973—Subsec. (a). Pub. L. 93–44, § 5(1) substituted "share of allowable project costs payable" for "share payable", added cls. (1) and (2), and deleted former provision limiting United States share to 50 per centum of the allowable project costs.

Subsec. (e). Pub. L. 93–44, § 5(2), added subsec. (e).

1971—Subsec. (c). Pub. L. 92–174 inserted reference to American Samoa and the Trust Territory of the Pacific Islands.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1716 of this title.

§ 1719. Grant agreements; offer of terms and conditions; acceptance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 4519.

Chapter 26.—HAZARDOUS MATERIALS TRANSPORTATION CONTROL

§§ 1761, 1762. Repealed. Pub. L. 93–633, title I, § 113(g), Jan. 3, 1975, 88 Stat. 2163.

Section 1761, Pub. L. 91–458, title III, § 302, Oct. 16, 1970, 84 Stat. 977, related to authority of the Secretary of Transportation respecting hazardous materials transportation control, providing in: subsec. (a) for establishment of facilities and technical staff for evaluation of hazards, establishment of central reporting system for accidents, and conduct of review and making of recommendations regarding transportation of hazardous materials; subsec. (b) for the authority as being additional to that granted under sections 831 to 835 of Title 18; subsec. (c) for annual reports; and subsec. (d) for recommendations for additional legislation.

Section 1762, Pub. L. 91–458, title III, § 303, Oct. 16, 1970, 84 Stat. 977, amended Pub. L. 93–90, § 3, Aug. 14, 1973, 87 Stat. 305, authorized $1,200,000 appropriations authorization for fiscal year ending June 30, 1974, for hazardous materials transportation control.

Subject matter is now covered by chapter 27 (section 1801 et seq.) of this title.

EFFECTIVE DATE OF REPEAL; CONTINUANCE OF PRIOR PROVISIONS; TWO YEAR LIMITATION AFTER JAN. 3, 1975, FOR ARRANGEMENTS, INCLUDING LICENSES, ETC., TO COMPLY WITH PUB. 93–633; PENDING PROCEEDINGS UNAFFECTED

Repeal by Pub. L. 93–633 effective Jan. 3, 1975, except as otherwise provided, see section 114 of Pub. L. 93–633, set out as a note under section 1801 of this title.

Chapter 27.—HAZARDOUS MATERIALS TRANSPORTATION [NEW]

Sec.
1801. Congressional declaration of policy.
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1803. Designation of hazardous materials.
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1810. Specific Relief.
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1811. Relationship to other laws.
(a) General.
(b) State laws.
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1812. Authorization of appropriations.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 45 section 440.

§ 1801. Congressional declaration of policy.

It is declared to be the policy of Congress in this chapter to improve the regulatory and enforcement authority of the Secretary of Transportation to protect the Nation adequately against the risks to life and property which are inherent in the transportation of hazardous materials in commerce. (Pub. L. 93–633, title I, § 102, Jan. 3, 1975, 88 Stat. 2156.)

REFERENCES IN TEXT

"This chapter", referred to in text, read "this title" in the original, meaning title I of Pub. L. 93–633, the Hazardous Materials Transportation Act. For classification of title I of Pub. L. 93–633 in the Code, see Short Title note under this section.

SHORT TITLE

Section 1 of Pub. L. 93–633 provided: "That this Act [which enacted this chapter and chapter 28 (section 1901 et seq.) of this title, amended sections 1471, 1472, 1653, and 1655 of this title, sections 39, 437, 438, 440, and 441 of Title 45, and section 170 of Title 46, repealed sections 1654, 1761, and 1762 of this title, and enacted provisions set out as notes under this section, section 1901 of this title, and section 440 of Title 45] may be cited as the 'Transportation Safety Act of 1974'."

Section 101 of Pub. L. 93–633 provided that: "this title [which enacted this chapter, amended sections 1471, 1472, and 1655 of this title and section 170 of Title 46, repealed sections 1761 and 1762 of this title, and enacted provisions set out as notes under this section] may be cited as the 'Hazardous Materials Transportation Act'."

EFFECTIVE DATE; CONTINUANCE OF PRIOR PROVISIONS; TWO YEAR LIMITATION AFTER JAN. 3, 1975, FOR ARRANGEMENTS, INCLUDING LICENSES, ETC., TO COMPLY WITH PUB. L. 93–633; PENDING PROCEEDINGS UAFFECTED

Section 114 of Pub. L. 93–633 provided that:

"(a) Except as provided in this section, the provisions of this title [see Short Title note hereunder] shall take effect on the date of enactment [Jan. 3, 1975].

"(b)(1) Except as provided in section 108 of this title [section 1807 of this title] or paragraph (2) of this subsection, any order, determination, rule, regulation, permit, contract, certificate, license, or privilege issued, granted, or otherwise authorized or allowed, prior to the date of enactment of this title [Jan. 3, 1975], pursuant to any provision of law amended or repealed by this title [Jan. 3, 1975], shall continue in effect according to its terms or until repealed, terminated, withdrawn, amended, or modified by the Secretary or a court of competent jurisdiction.

"(2) The Secretary shall take all steps necessary to bring orders, determinations, rules, and regulations into conformity with the purposes and provisions of this title [see Short Title note hereunder] as soon as practicable, but in any event no permits, contracts, certificates, licenses, or privileges granted prior to the date of enactment of this title [Jan. 3, 1975], or renewed or extended thereafter, shall be of any effect more than 2 years after the date of enactment of this title [Jan. 3, 1975], unless there is full compliance with the purposes and provisions of this Act [see Short Title note hereunder] and regulations thereunder.

"(c) Proceedings pending upon the date of enactment of this title [Jan. 3, 1975] shall not be affected by the provisions of this title [see Short Title note hereunder] and shall be completed as if this title [see Short Title note hereunder] had not been enacted, unless the Secretary makes a determination that the public health and safety otherwise require."

§ 1802. Definitions.

As used in this chapter, the term—

(1) "commerce" means trade, traffic, commerce, or transportation, within the jurisdiction of the United States (A) between a place in a State and any place outside of such State, or (B) which affects trade, traffic, commerce, or transportation described in clause (A);

(2) "hazardous material" means a substance or material in a quantity and form which may pose an unreasonable risk to health and safety or property when transported in commerce;

(3) "Secretary" means the Secretary of Transportation, or his delegate;

(4) "serious harm" means death, serious illness, or severe personal injury;

(5) "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, or Guam;

(6) "transports" or "transportation" means any movement of property by any mode, and any loading, unloading, or storage incidental thereto; and

(7) "United States" means all of the States.

(Pub. L. 93–633, title I, § 103, Jan. 3, 1975, 88 Stat. 2156.)

REFERENCES IN TEXT

"This chapter", referred to in text, read "this title" in the original, meaning title I of Pub. L. 93–633, the Hazardous Materials Transportation Act. For classification of title I of Pub. L. 93–633 in the Code, see Short Title note under section 1801 of this title.

EFFECTIVE DATE; CONTINUANCE OF PRIOR PROVISIONS; TWO YEAR LIMITATION AFTER JAN. 3, 1975, FOR ARRANGEMENTS, INCLUDING LICENSES, ETC. TO COMPLY WITH PUB. L. 93–633; PENDING PROCEEDINGS UNAFFECTED.

Section effective Jan. 3, 1975, except as otherwise provided, see section 114 of Pub. L. 93–633, set out as a note under section 1801 of this title.

§ 1803. Designation of hazardous materials.

Upon a finding by the Secretary, in his discretion, that the transportation of a particular quantity and form of material in commerce may pose an unreasonable risk to health and safety or property, he shall designate such quantity and form of material or group or class of such materials as a hazardous material. The materials so designated may include, but are not limited to, explosives, radioactive materials, etiologic agents, flammable liquids or solids, combustible liquids or solids, poisons, oxidizing or corrosive materials, and compressed gases. (Pub. L. 93–633, title I, § 104, Jan. 3, 1975, 88 Stat. 2156.)

EFFECTIVE DATE; CONTINUANCE OF PRIOR PROVISIONS; TWO YEAR LIMITATION AFTER JAN. 3, 1975, FOR ARRANGEMENTS, INCLUDING LICENSES, ETC., TO COMPLY WITH PUB. L. 93–633; PENDING PROCEEDINGS UNAFFECTED.

Section effective Jan. 3, 1975, except as otherwise provided, see section 114 of Pub. L. 93–633, set out as a note under section 1801 of this title.

§ 1804. Regulations governing transportation of hazardous materials.

(a) General.

The Secretary may issue, in accordance with the provisions of section 553 of Title 5 including an opportunity for informal oral presentation, regulations for the safe transportation in commerce of hazardous materials. Such regulations shall be applicable to any person who transports, or causes to be transported or shipped, a hazardous material, or who manufactures, fabricates, marks, maintains, reconditions, repairs, or tests a package or container which is represented, marked, certified, or sold by such person for use in the transportation in commerce of certain hazardous materials. Such regulations may govern any safety aspect of the transportation of hazardous materials which the Secretary deems necessary or appropriate, including, but not limited to, the packing, repacking, handling, labeling, marking, placarding, and routing (other than with respect to pipelines) of hazardous materials, and the manufacture, fabrication, marking, maintenance, reconditioning, repairing, or testing of a package or container which is represented, marked, certified, or sold by such person for use in the transportation of certain hazardous materials.

(b) Cooperation.

In addition to other applicable requirements, the Secretary shall consult and cooperate with representatives of the Interstate Commerce Commission and shall consider any relevant suggestions made by such Commission, before issuing any regulation with respect to the routing of hazardous materials. Such Commission shall, to the extent of its lawful authority, take such action as is necessary or appropriate to implement any such regulation.

(c) Representation.

No person shall, by marking or otherwise, represent that a container or package for the transportation of hazardous materials is safe, certified, or in compliance with the requirements of this Act, unless it meets the requirements of all applicable regulations issued under this Act. (Pub. L. 93–633, title I, § 105, Jan. 3, 1975, 88 Stat. 2157.)

REFERENCES IN TEXT

"This Act", referred to in text, means Pub. L. 93–633, the Transportation Safety Act of 1974. For classification of Pub. L. 93–633 to this Code, see Short Title note under section 1801 of this title.

EFFECTIVE DATE; CONTINUANCE OF PRIOR PROVISIONS; TWO YEAR LIMITATION AFTER JAN. 3, 1975, FOR ARRANGEMENTS, INCLUDING LICENSES, ETC., TO COMPLY WITH PUB. L. 93–633; PENDING PROCEEDINGS UNAFFECTED.

Section effective Jan. 3, 1975, except as otherwise provided, see section 114 of Pub. L. 93–633, set out as a note under section 1801 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1472, 1806, 1807 of this title.

§ 1805. Handling of hazardous materials.

(a) Criteria.

The Secretary is authorized to establish criteria for handling hazardous materials. Such criteria may include, but need not be limited to, a minimum number of personnel; a minimum level of training and qualification for such personnel; type and frequency of inspection; equipment to be used for detection, warning, and control of risks posed by such materials; specifications regarding the use of equipment and facilities used in the handling and transportation of such materials; and a system of monitoring safety assurance procedures for the transportation of such materials. The Secretary may revise such criteria as required.

(b) Registration.

Each person who transports or causes to be transported or shipped in commerce hazardous materials or who manufactures, fabricates, marks, maintains, reconditions, repairs, or tests packages or containers which are represented, marked, certified, or sold by such person for use in the transportation in commerce of certain hazardous materials (designated by the Secretary) may be required by the

Secretary to prepare and submit to the Secretary a registration statement not more often than once every 2 years. Such a registration statement shall include, but need not be limited to, such person's name; principal place of business; the location of each activity handling such hazardous materials; a complete list of all such hazardous materials handled; and an averment that such person is in compliance with all applicable criteria established under subsection (a) of this section. The Secretary shall by regulation prescribe the form of any such statement and the information required to be included. The Secretary shall make any registration statement filed pursuant to this subsection available for inspection by any person, without charge, except that nothing in this sentence shall be deemed to require the release of any information described by subsection (b) of section 552 of Title 5, or which is otherwise protected by law from disclosure to the public.

(c) Requirement.

No person required to file a registration statement under subsection (b) of this section may transport or cause to be transported or shipped extremely hazardous materials, or manufacture, fabricate, mark, maintain, recondition, repair, or test packages or containers for use in the transportation of extremely hazardous materials, unless he has on file a registration statement. (Pub. L. 93–633, title I, § 106, Jan. 3, 1975, 88 Stat. 2157.)

EFFECTIVE DATE; CONTINUANCE OF PRIOR PROVISIONS; TWO YEAR LIMITATION AFTER JAN. 3, 1975, FOR ARRANGEMENTS, INCLUDING LICENSES, ETC., TO COMPLY WITH PUB. L. 93–633; PENDING PROCEEDINGS UNAFFECTED

Section effective Jan. 3, 1975, except as otherwise provided, see section 114 of Pub. L. 93–633, set out as a note under section 1801 of this title.

§ 1806. Exemptions.

(a) General.

The Secretary, in accordance with procedures prescribed by regulation, is authorized to issue or renew, to any person subject to the requirements of this chapter, an exemption from the provisions of this chapter, and from regulations issued under section 1804 of this title, if such person transports or causes to be transported or shipped hazardous materials in a manner so as to achieve a level of safety (1) which is equal to or exceeds that level of safety which would be required in the absence of such exemption, or (2) which would be consistent with the public interest and the policy of this chapter in the event there is no existing level of safety established. The maximum period of an exemption issued or renewed under this section shall not exceed 2 years, but any such exemption may be renewed upon application to the Secretary. Each person applying for such an exemption or renewal shall, upon application, provide a safety analysis as prescribed by the Secretary to justify the grant of such exemption. A notice of an application for issuance or renewal of such exemption shall be published in the Federal Register. The Secretary shall afford access to any such safety analysis and an opportunity for public comment on any such application, except that nothing in this sentence shall be deemed to require the release of any information described by subsection (b) of section 552 of Title 5, or which is otherwise protected by law from disclosure to the public.

(b) Vessels.

The Secretary shall exclude, in whole or in part, from any applicable provisions and regulations under this chapter, any vessel which is excepted from the application of section 201 of the Ports and Waterways Safety Act of 1972 by paragraph (2) of such section, or any other vessel regulated under such Act, to the extent of such regulation.

(c) Firearms and ammunition.

Nothing in this chapter, or in any regulation issued under this chapter, shall be construed to prohibit or regulate the transportation by any individual, for personal use, of any firearm (as defined in paragraph (4) of section 232 of Title 18) or any ammunition therefor, or to prohibit any transportation of firearms or ammunition in commerce.

(d) Limitation on authority.

Except when the Secretary determines that an emergency exists, exemptions or renewals granted pursuant to this section shall be the only means by which a person subject to the requirements of this chapter may be exempted from or relieved of the obligation to meet any requirements imposed under this chapter. (Pub. L. 93–633, title I, § 107, Jan. 3, 1975, 88 Stat. 2158.)

REFERENCES IN TEXT

"This chapter", referred to in text, read "this title" in the original, meaning title I of Pub. L. 93–633, the Hazardous Materials Transportation Act. For classification of title I of Pub. L. 93–633 in the Code, see Short Title note under section 1801 of this title.

Section 201 of Ports and Waterways Safety Act of 1972, par. (2) of such section, and such Act, referred to in subsec. (b), are references to Pub. L. 93–340, the Ports and Waterways Safety Act of 1972. Such Act enacted chapter 25 (section 1221 et seq.) of Title 33, Navigation and Navigable Waters, and amended section 391a of Title 46, Shipping. Section 201 of the Act is classified to section 391a of Title 46. Par. (2) of such section 201 is classified to par. (2) of section 391a of Title 46.

EFFECTIVE DATE; CONTINUANCE OF PRIOR PROVISIONS; TWO YEAR LIMITATION AFTER JAN. 3, 1975, FOR ARRANGEMENTS, INCLUDING LICENSES, ETC., TO COMPLY WITH PUB. L. 93–633; PENDING PROCEEDINGS UNAFFECTED

Section effective Jan. 3, 1975, except as otherwise provided, see section 114 of Pub. L. 93–633, set out as a note under section 1801 of this title.

§ 1807. Transportation of radioactive materials in passenger-carrying aircraft.

(a) General.

Within 120 days after January 3, 1975, the Secretary shall issue regulations, in accordance with this section and pursuant to section 1804 of this title, with respect to the transportation of radioactive materials on any passenger-carrying aircraft in air commerce, as defined in section 1301(4) of this title. Such regulations shall prohibit any transportation of radioactive materials on any such aircraft unless the radioactive materials involved are intended for use in, or incident to, research, or medical diagnosis or treatment, so long as such materials as prepared for and during transportation do not pose an unreasonable hazard to health and safety. The Secretary shall further establish effective procedures for monitoring and enforcing the provisions of such regulations.

(b) Definition.

As used in this section, "radioactive materials" means any materials or combination of materials which spontaneously emit ionizing radiation. The term does not include materials in which (1) the estimated specific activity is not greater than 0.002 microcuries per gram of material; and (2) the radiation distributed in an essentially uniform manner. (Pub. L. 93–633, title I, § 108, Jan. 3, 1975, 88 Stat. 2159.)

EFFECTIVE DATE; CONTINUANCE OF PRIOR PROVISIONS; TWO YEAR LIMITATION AFTER JAN. 3, 1975, FOR ARRANGEMENTS, INCLUDING LICENSES, ETC., TO COMPLY WITH PUB. L. 93–633; PENDING PROCEEDINGS UNAFFECTED

Section effective Jan. 3, 1975, except as otherwise provided, see section 114 of Pub. L. 93–633, set out as a note under section 1801 of this title.

§ 1808. Powers and duties of Secretary.

(a) General.

The Secretary is authorized to the extent necessary to carry out his responsibilities under this chapter, to conduct investigations, make reports, issue subpoenas, conduct hearings, require the production of relevant documents, records, and property, take depositions, and conduct, directly or indirectly, research, development, demonstration, and training activities. The Secretary is further authorized, after notice and an opportunity for a hearing, to issue orders directing compliance with this chapter or regulations issued under this chapter; the district courts of the United States shall have jurisdiction, upon petition by the Attorney General, to enforce such orders by appropriate means.

(b) Records.

Each person subject to requirements under this chapter shall establish and maintain such records, make such reports, and provide such information as the Secretary shall by order or regulation prescribe, and shall submit such reports and shall make such records and information available as the Secretary may request.

(c) Inspection.

The Secretary may authorize any officer, employee, or agent to enter upon, inspect, and examine, at reasonable times and in a reasonable manner, the records and properties of persons to the extent such records and properties relate to—

(1) the manufacture, fabrication, marking, maintenance, reconditioning, repair, testing, or distribution of packages or containers for use by any person in the transportation of hazardous materials in commerce; or

(2) the transportation or shipment by any person of hazardous materials in commerce.

Any such officer, employee, or agent shall, upon request, display proper credentials.

(d) Facilities and duties.

The Secretary shall—

(1) establish and maintain facilities and technical staff sufficient to provide, within the Federal government, the capability of evaluating risks connected with the transportation of hazardous materials and materials alleged to be hazardous;

(2) establish and maintain a central reporting system and data center so as to be able to provide the law-enforcement and firefighting personnel of communities, and other interested persons and government officers, with technical and other information and advice for meeting emergencies connected with the transportation of hazardous materials; and

(3) conduct a continuing review of all aspects of the transportation of hazardous materials in order to determine and to be able to recommend appropriate steps to assure the safe transportation of hazardous materials.

(e) Annual report.

The Secretary shall prepare and submit to the President for transmittal to the Congress on or before May 1 of each year a comprehensive report on the transportation and hazardous materials during the preceding calendar year. Such report shall include, but need not be limited to—

(1) a thorough statistical compilation of any accidents and casualties involving the transportation of hazardous materials;

(2) a list and summary of applicable Federal regulations, criteria, orders, and exemptions in effect;

(3) a summary of the basis for any exemptions granted or maintained;

(4) an evaluation of the effectiveness of enforcement activities and the degree of voluntary compliance with applicable regulations;

(5) a summary of outstanding problems confronting the administration of this chapter, in order of priority; and

(6) such recommendations for additional legislation as are deemed necessary or appropriate.

(Pub. L. 93–633, title I, § 109, Jan. 3, 1975, 88 Stat. 2159.)

REFERENCES IN TEXT

"This chapter", referred to in subsecs. (a), (b), and (e)(5), read "this title" in the original, meaning title I of Pub. L. 93–633, the Hazardous Materials Transportation Act. For classification of title I of Pub. L. 93–633 in the Code, see Short Title note under section 1801 of this title.

EFFECTIVE DATE; CONTINUANCE OF PRIOR PROVISIONS; TWO YEAR LIMITATION AFTER JAN. 3, 1975, FOR ARRANGEMENTS, INCLUDING LICENSES, ETC., TO COMPLY WITH PUB. L. 93–633; PENDING PROCEEDINGS UNAFFECTED

Section effective Jan. 3, 1975, except as otherwise provided, see section 114 of Pub. L. 93–633, set out as a note under section 1801 of this title.

§ 1809. Penalties.

(a) Civil.

(1) Any person (except an employee who acts without knowledge) who is determined by the Secretary, after notice and an opportunity for a hearing, to have knowingly committed an act which is a violation of a provision of this chapter or of a regulation issued under this chapter, shall be liable to the United States for a civil penalty. Whoever knowingly commits an act which is a violation of any regulation, applicable to any person who transports or causes to be transported or shipped hazardous materials, shall be subject to a civil penalty of not more than $10,000 for each violation, and if any such violation is a continuing one, each day of violation constitutes a separate offense. Whoever knowingly commits an act which is a violation of any regulation applicable to any person who manufactures, fabricates,

marks, maintains, reconditions, repairs, or tests a package or container which is represented, marked, certified, or sold by such person for use in the transportation in commerce of hazardous materials shall be subject to a civil penalty of not more than $10,000 for each violation. The amount of any such penalty shall be assessed by the Secretary by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the person found to have committed such violation, the degree of culpability, any history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.

(2) Such civil penalty may be recovered in an action brought by the Attorney General on behalf of the United States in the appropriate district court of the United States or, prior to referral to the Attorney General, such civil penalty may be compromised by the Secretary. The amount of such penalty, when finally determined (or agreed upon in compromise), may be deducted from any sums owed by the United States to the person charged. All penalties collected under this subsection shall be deposited in the Treasury of the United States as miscellaneous receipts.

(b) Criminal.

A person is guilty of an offense if he willfully violates a provision of this chapter or a regulation issued under this chapter. Upon conviction, such person shall be subject, for each offense, to a fine of not more than $25,000, imprisonment for a term not to exceed 5 years, or both. (Pub. L. 93–633, title I, § 110, Jan. 3, 1975, 88 Stat. 2160.)

REFERENCES IN TEXT

"This chapter", referred to in subsecs. (a)(1) and (b), read "this title" in the original, meaning title I of Pub. L. 93–633, the Hazardous Materials Transportation Act. For classification of title I of Pub. L. 93–633 in the Code, see Short Title note under section 1801 of this title.

EFFECTIVE DATE; CONTINUANCE OF PRIOR PROVISIONS; TWO YEAR LIMITATION AFTER JAN. 3, 1975, FOR ARRANGEMENTS, INCLUDING LICENSES, ETC., TO COMPLY WITH PUB. L. 93–633; PENDING PROCEEDINGS UNAFFECTED

Section effective Jan. 3, 1975, except as otherwise provided, see section 114 of Pub. L. 93–633, set out as a note under section 1801 of this title.

§ 1810. Specific relief.

(a) General.

The Attorney General, at the request of the Secretary, may bring an action in an appropriate district court of the United States for equitable relief to redress a violation by any person of a provision of this chapter, or an order or regulation issued under this chapter. Such district courts shall have jurisdiction to determine such actions and may grant such relief as is necessary or appropriate, including mandatory or prohibitive injunctive relief, interim equitable relief, and punitive damages.

(b) Imminent hazard.

If the Secretary has reason to believe that an imminent hazard exists, he may petition an appropriate district court of the United States, or upon his request the Attorney General shall so petition, for an order suspending or restricting the transportation of the hazardous material responsible for such imminent hazard, or for such other order as is necessary to eliminate or ameliorate such imminent hazard. As used in this subsection, an "imminent hazard" exists if there is substantial likelihood that serious harm will occur prior to the completion of an administrative hearing or other formal proceeding initiated to abate the risk of such harm. (Pub. L. 93–633, title I, § 111, Jan. 3, 1975, 88 Stat. 2161.)

REFERENCES IN TEXT

"This chapter", referred to in subsec. (a), read "this title" in the original, meaning title I of Pub. L. 93–633, the Hazardous Materials Transportation Act. For classification of title I of Pub. L. 93–633 in the Code, see Short Title note under section 1801 of this title.

EFFECTIVE DATE; CONTINUANCE OF PRIOR PROVISIONS; TWO YEAR LIMITATION AFTER JAN. 3, 1975, FOR ARRANGEMENTS, INCLUDING LICENSES, ETC., TO COMPLY WITH PUB. L. 93–633; PENDING PROCEEDINGS UNAFFECTED

Section effective Jan. 3, 1975, except as otherwise provided, see section 114 of Pub. L. 93–633, set out as a note under section 1801 of this title.

§ 1811. Relationship to other laws.

(a) General.

Except as provided in subsection (b) of this section, any requirement, of a State or political subdivision thereof, which is inconsistent with any requirement set forth in this chapter, or in a regulation issued under this chapter, is preempted.

(b) State laws.

Any requirement, of a State or political subdivision thereof, which is not consistent with any requirement set forth in this chapter, or in a regulation issued under this chapter, is not preempted if, upon the application of an appropriate State agency, the Secretary determines, in accordance with procedures to be prescribed by regulation, that such requirement (1) affords an equal or greater level of protection to the public than is afforded by the requirements of this chapter or of regulations issued under this chapter and (2) does not unreasonably burden commerce. Such requirement shall not be preempted to the extent specified in such determination by the Secretary for so long as such State or political subdivision thereof continues to administer and enforce effectively such requirement.

(c) Other federal laws.

The provisions of this chapter shall not apply to pipelines which are subject to regulation under the Natural Gas Pipeline Safety Act of 1968 (section 1671 et seq. of this title) or to pipelines which are subject to regulation under chapter 39 of Title 18. (Pub. L. 93–633, title I, § 112, Jan. 3, 1975, 88 Stat. 2161.)

REFERENCES IN TEXT

"This chapter", referred to in text, read "this title" in the original, meaning title I of Pub. L. 93–633, the Hazardous Materials Transportation Act. For classification of title I of Pub. L. 93–633 in the Code, see Short Title note under section 1801 of this title.

EFFECTIVE DATE; CONTINUANCE OF PRIOR PROVISIONS; TWO YEAR LIMITATION AFTER JAN. 3, 1975, FOR ARRANGEMENTS, INCLUDING LICENSES, ETC., TO COMPLY WITH PUB. L. 93–633; PENDING PROCEEDINGS UNAFFECTED

Section effective Jan. 3, 1975, except as otherwise provided, see section 114 of Pub. L. 93–633, set out as a note under section 1801 of this title.

§ 1812. Authorization of appropriations.

There are authorized to be appropriated to carry out the provisions of this chapter not to exceed $7,000,000 for the fiscal year ending June 30, 1976, and not to exceed $1,750,000 for the transition period of July 1, 1976, through September 30, 1976. (Pub. L. 93–633, title I, § 115, Jan. 3, 1975, 88 Stat. 2164, amended Pub. L. 94–56, § 4, July 19, 1975, 89 Stat. 264.)

REFERENCES IN TEXT

"This chapter", referred to in text, read "this title" in the original, meaning title I of Pub. L. 93–633, the Hazardous Materials Transportation Act. For classification of title I of Pub. L. 93–633 in the Code, see Short Title note under section 1801 of this title.

AMENDMENTS

1975—Pub. L. 94–56 substituted provisions authorizing appropriations of not to exceed $7,000,000 for the fiscal year ending June 30, 1976, and not to exceed $1,750,000 for the transition period of July 1, 1976, through Sept. 30, 1976, for provisions authorizing appropriations not to exceed $7,000,000 for the fiscal year ending June 30, 1975.

EFFECTIVE DATE; CONTINUANCE OF PRIOR PROVISIONS; TWO YEAR LIMITATION AFTER JAN. 3, 1975, FOR ARRANGEMENTS, INCLUDING LICENSES, ETC., TO COMPLY WITH PUB. L. 93–633; PENDING PROCEEDINGS UNAFFECTED

Section effective Jan. 3, 1975, except as otherwise provided, see section 114 of Pub. L. 93–633, set out as a note under section 1801 of this title.

Chapter 28.—NATIONAL TRANSPORTATION SAFETY BOARD [NEW]

Sec.
1901. Congressional findings.
1902. National Transportation Safety Board.
(a) Establishment.
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1903. General provisions.
(a) Duties of Board.
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1904. Annual report.
1905. Public access to information.
(a) General.
(b) Exception.
1906. Response to Board Recommendations.
1907. Authorization of appropriations.

§ 1901. Congressional findings.

The Congress finds and declares:

(1) The National Transportation Safety Board was established by statute in 1966 (Public Law 89–670; 80 Stat. 935) as an independent Government agency, located within the Department of Transportation, to promote transportation safety by conducting independent accident investigations and by formulating safety improvement recommendations.

(2) Proper conduct of the responsibilities assigned to this Board requires vigorous investigation of accidents involving transportation modes regulated by other agencies of Government; demands continual review, appraisal, and assessment of the operating practices and regulations of all such agencies; and calls for the making of conclusions and recommendations that may be critical of or adverse to any such agency or its officials. No Federal agency can properly perform such functions unless it is totally separate and independent from any other department, bureau, commission, or agency of the United States.

(Pub. L. 93–633, title III, § 302, Jan. 3, 1975, 88 Stat. 2166.)

REFERENCES IN TEXT

National Transportation Safety Board was established by section 5 of Pub. L. 89–670, formerly classified to section 1654 of this title, and referred to in subd. (1) as being established by statute in 1966.

SHORT TITLE

Section 301 of Pub. L. 93–633 provided that: "This title [which enacted this chapter and amended section 1653 (c), (d) and repealed section 1654 of this title] may be cited as the 'Independent Safety Board Act of 1974'."

§ 1902. National Transportation Safety Board.

(a) Establishment.

The National Transportation Safety Board (hereafter in this chapter referred to as the "Board"), previously established within the Department of Transportation, shall be an independent agency of the United States, in accordance with this section, on and after April 1, 1975.

(b) Organization.

(1) The Board shall consist of five members, including a Chairman. Members of the Board shall be appointed by the President, by and with the advice and consent of the Senate. No more than three members of the Board shall be of the same political party. At any given time, no less than two members of the Board shall be individuals who have been appointed in the field of accident reconstruction, safety engineering, or transportation safety.

(2) The terms of office of members of the Board shall be 5 years, except as otherwise provided in this paragraph. Any individual appointed to fill a vacancy occurring on the Board prior to the expiration of the term of office for which his predecessor was appointed shall be appointed for the remainder of that term. Upon the expiration of his term of office, a member shall continue to serve until his successor is appointed and shall have qualified. Individuals serving as members of the National Transportation Safety Board on January 3, 1975, shall continue to serve as members of the Board until the expiration of their then current term of office. Any member of the Board may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

(3) On or before January 1, 1976 (and thereafter as required), the President shall—

(A) designate, by and with the advice and consent of the Senate, an individual to serve as the Chairman of the Board (hereafter in this chapter referred to as the "Chairman"); and

(B) an individual to serve as Vice Chairman.

The Chairman and Vice Chairman each shall serve for a term of 2 years. The Chairman shall be the chief executive officer of the Board and shall exercise the executive and administrative functions of the Board with respect to the appointment and supervision of personnel employed by the Board; the distribution of business among such personnel and among any administrative units of the Board; and the use and expenditure of funds. The Vice Chairman shall act as Chairman in the event of the absence or incapacity of the Chairman or in case of a vacancy in the office of Chairman. The Chairman or

Acting Chairman shall be governed by the general policies established by the Board, including any decisions, findings, determinations, rules, regulations, and formal resolutions.

(4) Three members of the Board shall constitute a quorum for the transaction of any function of the Board.

(5) The Board shall establish and maintain distinct and appropriately staffed bureaus, divisions, or offices to investigate and report on accidents involving each of the following modes of transportation: (A) aviation; (B) highway and motor vehicle; (C) railroad and tracked vehicle; and (D) pipeline. The Board shall, in addition, establish and maintain any other such office as is needed, including an office to investigate and report on the safe transportation of hazardous materials.

(c) General.

(1) The General Services Administration shall furnish the Board with such offices, equipment, supplies, and services as it is authorized to furnish to any other agency or instrumentality of the United States.

(2) The Board shall have a seal which shall be judicially recognized.

(3) Subject to the civil service and classification laws, the Board is authorized to select, appoint, employ, and fix the compensation of such officers and employees, including investigators, attorneys, and administrative law judges, as shall be necessary to carry out its powers and duties under this chapter. (Pub. L. 93–633, title III, § 303, Jan. 3, 1975, 88 Stat. 2167.)

REFERENCES IN TEXT

"This chapter", referred to in subsecs. (a), (b)(3)(A), and (c)(3), read "this title" in the original, meaning title III of Pub. L. 93–633, the Independent Safety Board Act of 1974. For classification of title III of Pub. L. 93–633 in the Code, see Short Title note under section 1901 of this title.

Civil service and classification laws, referred to in subsec. (c)(3), are classified to Title 5, Government Organization and Employees. See, particularly, sections 3301 et seq., 5101 et seq., 5331 et seq.

§ 1903. General provisions.

(a) Duties of Board.

The Board shall—

(1) investigate or cause to be investigated (in such detail as it shall prescribe), and determine the facts, conditions, and circumstances and the cause or probable cause or causes of any—

(A) aircraft accident which is within the scope of the functions, powers, and duties transferred from the Civil Aeronautics Board under section 1655(d) of this title pursuant to title VII of the Federal Aviation Act of 1958, as amended;

(B) highway accident, including any railroad grade crossing accident, that it selects in cooperation with the States;

(C) railroad accident in which there is a fatality, substantial property damage, or which involves a passenger train;

(D) pipeline accident in which there is a fatality or substantial property damage;

(E) major marine casualty, except one involving only public vessels, occurring on the navigable waters or territorial seas of the United States, or involving a vessel of the United States, in accordance with regulations to be prescribed jointly by the Board and the Secretary of the department in which the Coast Guard is operating. Nothing in this subparagraph shall be construed to eliminate or diminish any responsibility under any other Federal statute of the Secretary of the department in which the Coast Guard is operating: *Provided,* That any marine accident involving a public vessel and any other vessel shall be investigated and the facts, conditions, and circumstances, and the cause or probable cause determined and made available to the public by either the Board or the Secretary of the Department in which the Coast Guard is operating; and

(F) other accident which occurs in connection with the transportation of people or property which, in the judgment of the Board, is catastrophic, involves problems of a recurring character, or would otherwise carry out the policy of this chapter.

The Board may request the Secretary of Transportation (hereafter in this chapter referred to as the "Secretary") to make investigations with regard to such accidents and to report to the Board the facts, conditions, and circumstances thereof (except in accidents where misfeasance or nonfeasance by the Federal Government is alleged), and the Secretary or his designees are authorized to make such investigations. Thereafter, the Board, utilizing such reports, shall make its determination of cause or probable cause under this paragraph;

(2) report in writing on the facts, conditions, and circumstances of each accident investigated pursuant to paragraph (1) of this subsection and cause such reports to be made available to the public at reasonable cost and to cause notice of the issuance and availability of such reports to be published in the Federal Register;

(3) issue periodic reports to the Congress, Federal, State, and local agencies concerned with transportation safety, and other interested persons recommending and advocating meaningful responses to reduce the likelihood of recurrence of transportation accidents similar to those investigated by the Board and proposing corrective steps to make the transportation of persons as safe and free from risk of injury as is possible, including steps to minimize human injuries from transportation accidents;

(4) initiate and conduct special studies and special investigations on matters pertaining to safety in transportation including human injury avoidance;

(5) assess and reassess techniques and methods of accident investigation and prepare and publish from time to time recommended procedures for accident investigations;

(6) establish by regulation requirements binding on persons reporting accidents subject to the Board's investigatory jurisdiction under this subsection;

(7) evaluate, assess the effectiveness, and publish the findings of the Board with respect to the

transportation safety consciousness and efficacy in preventing accidents of other Government agencies;

(8) evaluate the adequacy of safeguards and procedures concerning the transportation of hazardous materials and the performance of other Government agencies charged with assuring the safe transportation of such materials; and

(9) review on appeal (A) the suspension, amendment, modification, revocation, or denial of any operating certificate or license issued by the Secretary of Transportation under sections 1422, 1429, or 1431(c) of this title, and (B) the decisions of the Commandant of the Coast Guard, on appeals from the orders of any administrative law judge revoking, suspending, or denying a license, certificate, document, or register in proceedings under section 239 of Title 46, sections 239a and 239b of Title 46; or section 216b of Title 46.

(b) Powers of Board.

(1) The Board, or upon the authority of the Board, any member thereof, any administrative law judge employed by or assigned to the Board, or any officer or employee duly designated by the Chairman, may, for the purpose of carrying out this chapter, hold such hearings, sit and act at such times and places, administer such oaths, and require by subpoena or otherwise the attendance and testimony of such witnesses and the production of such evidence as the Board or such officer or employee deems advisable. Subpoenas shall be issued under the signature of the Chairman, or his delegate, and may be served by any person designated by the Chairman. Witnesses summoned to appear before the Board shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. Such attendance of witnesses and production of evidence may be required from any place in the United States to any designated place of such hearing in the United States.

(2) Any employee of the Board, upon presenting appropriate credentials and a written notice of inspection authority, is authorized to enter any property wherein a transportation accident has occurred or wreckage from any such accident is located and do all things therein necessary for a proper investigation. The employee may inspect, at reasonable times, records, files, papers, processes, controls, and facilities relevant to the investigation of such accident. Each inspection shall be commenced and completed with reasonable promptness and the results of such inspection made available.

(3) In case of contumacy or refusal to obey a subpoena, an order, or an inspection notice of the Board, or of any duly designated employee thereof, by any person who resides, is found, or transacts business within the jurisdiction of any district court of the United States, such district court shall, upon the request of the Board, have jurisdiction to issue to such person an order requiring such person to comply forthwith. Failure to obey such an order is punishable by such court as a contempt of court.

(4) The Board is authorized to enter into without regard to section 5 of Title 41, such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of the functions and the duties of the Board under this chapter, with any government entity or any person.

(5) The Board is authorized to obtain, and shall be furnished, with or without reimbursement, a copy of the report of the autopsy performed by State or local officials on any person who dies as a result of having been involved in a transportation accident within the jurisdiction of the Board and, if necessary, the Board may order the autopsy or seek other tests of such persons as may be necessary to the investigation of the accident: *Provided*, That to the extent consistent with the need of the accident investigation, provisions of local law protecting religious beliefs with respect to autopsies shall be observed.

(6) The Board is authorized to (A) use, on a reimbursable basis or otherwise when appropriate, available services, equipment, personnel, and facilities of the Department of Transportation and of other civilian or military agencies and instrumentalities of the Federal Government; (B) confer with employees and use available services, records, and facilities of State, municipal, or local governments and agencies; (C) employ experts and consultants in accordance with section 3109 of Title 5; (D) appoint one or more advisory committees composed of qualified private citizens or officials of Federal, State, or local governments as it deems necessary or appropriate, in accordance with the Federal Advisory Committee Act (5 U.S.C. App. I); (E) accept voluntary and uncompensated services notwithstanding any other provision of law; (F) accept gifts or donations of money or property (real, personal, mixed, tangible, or intangible); and (G) enter into contracts with public or private nonprofit entities for the conduct of studies related to any of its functions.

(7) Whenever the Board submits or transmits any budget estimate, budget request, supplemental budget estimate, or other budget information, legislative recommendation, prepared testimony for congressional hearings, or comment on legislation to the President or to the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress. No officer or agency of the United States shall have any authority to require the Board to submit its budget requests or estimates, legislative recommendations, prepared testimony for congressional hearings, or comments on legislation to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress.

(8) The Board is empowered to designate representatives to serve or assist on such committees as the Chairman determines to be necessary or appropriate to maintain effective liaison with other Federal agencies, and with State and local government agencies, and with independent standard-setting bodies carrying out programs and activities related to transportation safety.

(9) The Board, or an employee of the Board duly designated by the Chairman, may conduct an inquiry to secure data with respect to any matter pertinent to transportation safety, upon publication of notice of such inquiry in the Federal Register;

and may require, by special or general orders, Federal, State, and local government agencies and persons engaged in the transportation of people or property in commerce to submit written reports and answers to such requests and questions as are propounded with respect to any matter pertinent to any function of the Board. Such reports and answers shall be submitted to the Board or to such employee within such reasonable period of time and in such form as the Board may determine. Copies thereof shall be made available for inspection by the public.

(10) Establish such rules and regulations as may be necessary to the exercise of its functions.

(c) Use of reports as evidence.

No part of any report of the Board, relating to any accident or the investigation thereof, shall be admitted as evidence or used in any suit or action for damages growing out of any matter mentioned in such report or reports.

(d) Judicial review.

Any order, affirmative or negative, issued by the Board under this chapter shall be subject to review by the appropriate court of appeals of the United States or the United States Court of Appeals for the District of Columbia, upon petition filed within 60 days after the entry of such order by any person disclosing a substantial interest in such order. Such review shall be conducted in accordance with the provisions of chapter 7 of Title 5. (Pub. L. 93–633, title III, § 304, Jan. 3, 1975, 88 Stat. 2168.)

REFERENCES IN TEXT

Title VII of Federal Aviation Act of 1958, as amended, referred to in subsec. (a)(1)(A), is classified to section 1441 et seq. of this title.

"This chapter", referred to in subsecs. (a)(1)(F), sentence following (a)(1)(F), (b)(1), (4), and (d), read "this title" in the original, meaning title III of Pub. L. 93–633, the Independent Safety Board Act of 1974. For classification of title III of Pub. L. 93–633 in the Code, see Short Title note under section 1901 of this title.

§ 1904. Annual report.

The Board shall report to the Congress on July 1 of each year. Such report shall include, but need not be limited to—

(1) a statistical and analytical summary of the transportation accident investigations conducted and reviewed by the Board during the preceding calendar year;

(2) a survey and summary, in such detail as the Board deems advisable, of the recommendations made by the Board to reduce the likelihood of recurrence of such accidents together with the observed response to each such recommendation;

(3) an appraisal in detail of the accident investigation and accident prevention activities of other government agencies charged by Federal or State law with responsibility in this field; and

(4) a biennial appraisal and evaluation and review, and recommendations for legislative and administrative action and change, with respect to transportation safety.

(Pub. L. 93–633, title III, § 305, Jan. 3, 1975, 88 Stat. 2171.)

§ 1905. Public access to information.

(a) General.

Copies of any communication, document, investigation, or other report, or information received or sent by the Board, or any member or employee of the Board, shall be made available to the public upon identifiable request, and at reasonable cost, unless such information may not be publicly released pursuant to subsection (b) of this section. Nothing contained in this section shall be deemed to require the release of any information described by subsection (b) of section 552 of Title 5, or which is otherwise protected by law from disclosure to the public.

(b) Exception.

The Board shall not disclose information obtained under this chapter which concerns or relates to a trade secret referred to in section 1905 of Title 18, except that such information may be disclosed in a manner designed to preserve confidentiality—

(1) upon request, to other Federal Government departments and agencies for official use;

(2) upon request, to any committee of Congress having jurisdiction over the subject matter to which the information relates;

(3) in any judicial proceeding under a court order formulated to preserve the confidentiality of such information without impairing the proceedings; and

(4) to the public in order to protect health and safety, after notice to any interested person to whom the information pertains and an opportunity for such person to comment in writing, or orally in closed session, on such proposed disclosure (if the delay resulting from such notice and opportunity for comment would not be detrimental to health and safety).

(Pub. L. 93–633, title III, § 306, Jan. 3, 1975, 88 Stat. 2172.)

REFERENCES IN TEXT

"This chapter", referred to in subsec. (b), read "this title" in the original, meaning title III of Pub. L. 93–633, the Independent Safety Board Act of 1974. For classification of title III of Pub. L. 93–633 in the Code, see Short Title note under section 1901 of this title.

§ 1906. Response to Board Recommendations.

Whenever the Board submits a recommendation regarding transportation safety to the Secretary, he shall respond to each such recommendation formally and in writing not later than 90 days after receipt thereof. The response to the Board by the Secretary shall indicate his intention to—

(1) initiate and conduct procedures for adopting such recommendation in full, pursuant to a proposed timetable, a copy of which shall be included;

(2) initiate and conduct procedures for adopting such recommendation in part, pursuant to a proposed timetable, a copy of which shall be included. Such response shall set forth in detail the

reasons for the refusal to proceed as to the remainder of such recommendation; or

(3) refuse to initiate or conduct procedures for adopting such recommendation. Such response shall set forth in detail the reasons for such refusal.

The Board shall cause notice of the issuance of each such recommendation and of each receipt of a response thereto to be published in the Federal Register, and shall make copies thereof available to the public at reasonable cost. (Pub. L. 93–633, title III, § 307, Jan. 3, 1975, 88 Stat. 2172.)

§ 1907. Authorization of appropriations.

There are authorized to be appropriated for the purposes of this Act not to exceed $12,000,000 for the fiscal year ending June 30, 1975; and $12,000,000 for the fiscal year ending June 30, 1976, such sums to remain available until expended. (Pub. L. 93–633, title III, § 309, Jan. 3, 1975, 88 Stat. 2173.)

REFERENCES IN TEXT

"This Act", referred to in text, means Pub. L. 93–633, the Transportation Safety Act of 1974, which enacted this chapter. For complete classification of Pub. L. 93–633 in the Code, see Short Title note under section 1801 of this title.